

Decent Work Country Profile
SOUTH AFRICA

ILO Cataloguing in Publication Data

Decent work country profile: South Africa / International Labour Office. – Geneva: ILO, 2014

2 v.

ISBN 978-92-2-126211-4 (Print)

ISBN 978-92-2-126212-1 (web pdf)

International Labour Office

decent work / workers rights / employment opportunity / equal pay / working conditions /
employment security / social
security / social dialogue / South Africa R

13.01.3

DRAFT

Preface

Decent and productive work is central to efforts to reduce poverty and is a means for achieving equitable, inclusive and sustainable development. It embodies opportunities for work that is productive and delivers a fair income, provides security in the workplace and social protection for workers and their families, and gives people the freedom to express their concerns, as well as to organize and to participate in decisions that affect their lives.

In this regard, monitoring and assessing progress towards decent work at the country-level is a longstanding concern for the ILO and its constituents. In September 2008, the ILO convened an international Tripartite Meeting of Experts on the Measurement of Decent Work, and consequently, adopted a framework of Decent Work Indicators that was presented to the 18th International Conference of Labour Statisticians in December 2008. The Governing Body endorsed the proposal to test the framework in a number of countries, by developing Decent Work Country Profiles. These Profiles compile in one document all relevant and available data on decent work, statistical and legal indicators, as well as analysis of gaps and trends on decent work. The Profiles facilitate the evaluation of progress made towards decent work and inform national planning and policymaking. This document contains the Decent Work Country Profile for South Africa.

Contents

List of tables	ix
List of Legal Framework Indicators.....	x
List of abbreviations	xi
1. Economic and social context for decent work	1
2. Employment opportunities.....	10
3. Adequate earnings and productive work.....	10
4. Decent hours	32
5. Combining work, family and personal life	36
6. Work that should be abolished.....	40
7. Stability and security of work	44
8. Equal opportunity and treatment in employment.....	48
9. Safe work environment.....	57
10. Social security.....	61
11. Social dialogue, employers' and workers' representation	65
12. Proposal for monitoring indicators	72
13 The way forward.....	75
References.....	76
Annex I: List of South African legislation relating to Decent Work.....	91

Summary

The Decent Work Country Profile for South Africa analyses progress and challenges across the ten internationally agreed thematic areas of decent work. Within each area, the profile is based on a set of Decent Work Indicators, while information on rights at work and the legal framework for decent work is presented in the form of Legal Framework Indicators. Internationally recommended sets of indicators are used for both. However, the profile departs from the international recommendations where data for particular indicators are not available in South Africa. There are also several additions or adaptations of indicators to suit the South African context, as advised by the Steering Committee of South Africa's Decent Work Country Programme. The Steering Committee, which has representation from all social partners, oversaw the exercise and was actively involved in proposing additional indicators, as well as discussing and proposing revisions to draft versions.

The profile begins with a summary of the economic and social context for decent work. This is followed by a chapter on each of the thematic areas. To the extent possible, the indicators presented follow the international guidelines and are supplemented in various ways so as to be appropriate for the South African context. For example, the indicators in respect of youth are provided for different sub-groups corresponding to the national definition of youth, which has a cut-off point at 35 years.

The penultimate chapter presents proposals for a smaller set of indicators that could be used going forward to monitor the country's Decent Work Programme. This smaller set represents indicators based on data that are relatively reliable, produced regularly, and available relatively soon after the period which they measure. These indicators are also those that align most closely to the specific outcomes of the South African Programme prioritized for the 2014–15 biennium.

South Africa is relatively fortunate in the availability and reliability of statistics. In particular, the Quarterly Labour Force Survey (QLFS) provides regular data that give consistent results over time. Unfortunately, this survey does not include questions that can provide information for all the internationally specified indicators. Further, the survey-based data produced by Statistics South Africa do not provide very reliable measures of the coverage of the legislation and policies described in the more qualitative legal framework indicators. An alternative source for these indicators could be offered by administrative data from the various responsible government departments and agencies. However, such data are not always available and, where they are, the quality is sometimes open to question. The coverage indicators must thus be treated with caution.

In terms of the **economic and social context**, South Africa's current situation needs to be read against the background of the first non-racial elections of 1994, and the wide range of legal, policy and programmatic interventions which emerged since and have attempted to address imbalances of the past and create an inclusive society characterized by shared and equitable economic growth.

The background chapter notes the on-going attempts to address the major problem of unemployment, exacerbated by the additional challenges caused by the international financial and economic crisis of recent years. Further, it notes that despite its middle income status, South Africa is characterized by high levels of poverty and high income inequality between population (race) groups and within groups.

The high rate of unemployment in South Africa emerges as a key issue in the area of **employment opportunities**. The New Growth Path document launched in late 2010 envisages the creation of five million new jobs by 2020. Its vision is that by that time more than half of all working-age South Africans will be in paid employment and unemployment will have fallen to approximately 15 per cent. However, the unemployment rate, which was slightly above 22 per cent in the period 2006 through 2008, increased to 25.1 per cent in 2012, i.e., ten percentage points higher than the New Growth Path goal. If those who have given up looking for work are included, the expanded unemployment rate stood at 36.2 per cent overall in 2012: 32.0 per cent for men and 40.9 per cent for women. There are further stark differences by race group and – as elsewhere in the developing and developed world – substantially higher unemployment rates for youth than for older people.

South Africa is relatively unusual among developing countries in terms of its low levels of self-employment. In 2012, employees accounted for 84.8 per cent of employed people, while 5.2 per cent were recorded as employers, with only 9.3 per cent recorded as self-employed or own-account workers with no employees.

Informal employment is defined to include all persons in the informal sector and persons helping unpaid in their family business. It also includes employees in the formal sector or in private households who are not entitled to basic benefits from their employer such as a pension, and medical aid and who also do not have a written contract of employment. Over a quarter (28.7 per cent) of employed people were estimated to be in informal employment in 2012.

Adequate earnings and productive work is one of the areas where some of the international indicators cannot be produced, in this case because South Africa does not have a single

national minimum wage and several of the international indicators are based on such a minimum. The low-pay rate — the proportion of workers with monthly earnings less than two-thirds of the median — is thus used as the main indicator of inadequate earnings.

In 2012, just under a third (33.0 per cent) of non-agricultural workers earned less than two-thirds of median monthly earnings, with such earnings being more common among self-employed workers (37.5 per cent monthly) than among employees (34.9 per cent monthly). Across both categories of status in employment, low earnings were more common for women than for men, and also more common for rural workers than urban ones.

While South Africa does not have a single national minimum wage, minimum wages are set for some sectors which are considered vulnerable through ministerial and sectoral determinations in terms of the Basic Conditions of Employment Act (BCEA). The Department of Labour estimates that in 2013 the eleven sectoral determinations in force cover approximately 5.8 million employees – or about half of all employees (Department of Labour, 2013b). As a result, when also taking into account the 2.2 million (20 per cent of employees) estimated in 2010 to be covered by bargaining council agreements – which determine minimum wages in sectors where the parties are considered sufficiently representative – a significant share of workers are actually covered by minimum wage regulation.

With regard to **decent hours**, the percentage of workers working more than 48 hours per week dropped sharply after 2008, to 23.1 per cent in 2012. The BCEA sets ordinary hours of work at 45 hours per week, and a week of 48 hours thus suggests regular overtime work. The sudden drop could be the result of the global economic crisis, with reduced demand resulting in less need for overtime. Time-related under-employment appears to have increased between 2006 and 2009, after which it fell to around 4.0 per cent. The two indicators together resulted in 72.9 per cent of workers having hours that were neither excessive nor less than they would like in 2012.

Indicators present a challenge both internationally and within South Africa in the area of **combining work, family and personal life**. Analysis of data from the 2010 Time Use Survey confirms the international pattern of women being responsible for the overwhelming bulk of unpaid housework and care of others in the household. Thus women aged 18 years and above spent an average of 256 minutes of the 1,440 minutes in a day on unpaid care work, while men spent an average of 104 minutes.

The BCEA provides some relief for women employees in respect of their reproductive role by providing for a minimum of four consecutive months of maternity leave when they give birth. Leave is also provided where a child is adopted. The Act does not provide for pay during this period, but the Unemployment Insurance Act provides for a proportion of the wage or salary to be paid to employees who have contributed to the Fund. In 2011/12, payments were made to 104,407 claimants for maternity and adoption benefits.

In terms of **work that should be abolished**, forced labour is outlawed in the Constitution, and this prohibition is repeated in the BCEA. The Act sets age 15 as the minimum possible for legal employment of a child as an employee and also prohibits the employment of a child who is under the minimum school-leaving age.

An add-on module to the QLFS of the third quarter of 2010 included questions specifically designed to capture those forms of child labour that can be captured by such a survey. Overall, 784,000 children were found to be vulnerable according to at least one of the indicators of child labour, where the indicators considered other factors, such as interference with school studies, alongside age.

Stability and security of work have become an ever more important concern in the light of general shifts in the workplace away from permanent employment, combined with the impact of the global economic and financial crisis. In late 2012, 64 per cent of employees had permanent contracts, 14 per cent had limited duration contracts, while 22 per cent had contracts of unspecified duration. Comparison with estimates for 2006 suggests a declining rate of permanent and secure work for those fortunate enough to continue to be employed.

Workers who feel that they have been dismissed or otherwise treated unfairly can refer their dispute to a statutory or bargaining council or to the Commission for Conciliation, Mediation and Arbitration (CCMA). During the 2011/12 financial year, 123,458 cases of alleged unfair dismissal were referred to the Commission. This category consistently accounts for 80 per cent or more of all referrals to the Commission.

The Employment Equity Act is a key instrument for achieving **equal opportunity and treatment** in respect of employees. The Act focuses on race and gender alongside disability. The on-going gender and race imbalances in the upper echelons of the workforce are clear in that Africans accounted for only 12.3 per cent of top management and 18.4 per cent of senior management, while white employees accounted for 72.6 and 62.4 per cent respectively. Women's share of top management has increased over time, but the pattern has been erratic, while women's share of senior management appears to have declined dramatically between 2002 and 2012. The share of people with disabilities in companies' workforces has increased over the same period, but is still lower than desired.

In 2012, the gender earnings gap stood at 28.6 per cent for wages, salaries and earnings from non-agricultural self-employment combined. Disaggregation reveals a smaller, but still noticeable, gap of 25.7 per cent if the calculation is restricted to employees, but a very large – 52.4 per cent – shortfall for the self-employed. These gaps are, in part, related to the uneven distribution of women and men across occupations. The impact of the uneven distribution is exacerbated by the fact that within each occupational grouping except domestic work, median earnings are higher for women than men employees. An amendment to the law to provide for equal remuneration for work of equal value is currently under consideration.

Safe work environment is an area in which the available data – and in particular administrative data – are currently especially weak. Vacancies in Inspection and Enforcement Services exacerbate the problem of monitoring of health and safety. The Department of Labour has plans to employ additional specialist inspectors and has been allocated funds by the National Treasury for this purpose.

Compensation for injuries and work-related diseases is provided for by the Compensation for Occupational Injuries and Diseases Act, and is funded primarily through levies paid by employers. Compensation is available in cases of injury, disablement and death. Domestic workers are not covered by the Act.

Beyond compensation, within Government, the responsibility for health and safety at work is divided across national departments, namely Labour and Mineral Resources. The latter is responsible for mine health and safety, an extremely important area given the extreme depth, and accompanying danger, of many South African mines when compared to those elsewhere.

In terms of **social security**, for decades South Africa has had a non-contributory old-age grant that is currently payable to women and men aged 60 years and above who pass a means test. This grant is one of a set of grants that provide social protection to old people, disabled people, children and war veterans. In March 2012, nearly 2.7 million individuals were receiving the old-age grant, accounting for almost half of people aged 55 years and above.

South Africa does not have a national law that provides for work-related pension benefits. However, a 2010 study found that, between them, 29 of the 40 private bargaining councils had 43 retirement funds. Many large employers who do not fall under these councils also contribute to pension funds for their employees. The QLFS of 2012 records 49 per cent of employees as having employers who contribute to a pension fund on their behalf, and 32 per cent as being entitled to medical aid benefits from their employers. Among private bargaining councils, 15 councils had a medical or sick benefit fund of some kind in 2010. The situation in respect of payment of medical expenses as well as contributions is likely to change radically as a National Health Insurance is introduced (although not expected in the short-term).

Freedom of association related to employment was considered important enough in South Africa to be included in the Bill of Rights in the Constitution, thus setting a firm basis for the **promotion of social dialogue and representation of employers and workers**. According to data for August 2013, there were 190 trade unions and 164 employers' organizations registered with the Department of Labour. The QLFS of 2012 recorded a total of approximately 3.4 million union members, of whom 1.4 million (40 per cent) were female.

The National Economic Development and Labour Council (NEDLAC) is South Africa's foremost 'social dialogue' forum for the country's traditional social partners. Indeed, it is within this structure that the Decent Work programme for South Africa was agreed, and all amendments to labour laws are discussed.

List of tables

Table 1.	Economic and social context for decent work – Economic indicators	4
Table 2.	Percentage distribution of employment and income by enterprise size for various industry sectors.....	8
Table 3.	Individual tax payers, 2006–2011.....	9
Table 4.	Tertiary students by area of study, 2011	15
Table 5.	Employer and employee registrations for UIF, 2009/10–2011/12	16
Table 6.	Employment opportunities.....	18
Table 7.	Certification of skills development for employed and unemployed learners, 2011/12-2012/13	22
Table 8.	Certified learners by type of skills programme and status, 2012/13.....	22
Table 9.	Adequate earnings and productive work – Low-pay rate (below 2/3 of median monthly and hourly earnings)	24
Table 10.	Adequate earnings and productive work – Median nominal wages/earnings, by sector	25
Table 11.	Minimum hourly wages in sectoral determinations as at July 2013.....	27
Table 12.	Minimum wages specified in bargaining councils, September 2011	27
Table 13.	Results of blitz inspections, 2012/13	28
Table 14.	Median earnings of employees by gender, population group and educational level, 15-64 years	29
Table 15.	Decent hours	33
Table 16.	Combining work and family life.....	38
Table 17.	Stability and security of work	44
Table 18.	Race, gender and disability in Employment Equity reports 2002–2012	51
Table 19.	Equal opportunity and treatment in employment – Occupational segregation by gender.....	52
Table 20.	Equal opportunity and treatment in employment – Gender differences	54
Table 21.	Number of Department of Labour inspectors as at end March 2012.....	58
Table 22.	Number of inspections, 2006/07–2011/12.....	58
Table 23.	Safe work environment: Reported occupational injuries and labour inspectors	58
Table 24.	Number and rate of fatalities and injuries on mines	60
Table 25.	Social security	62
Table 26.	Trade union and employer organization membership	68
Table 27.	Working days lost by principle cause of strike, 2011 and 2012	69
Table 28.	Number of striking employees, hours lost, and days lost per 1,000 workers by sector, 2011 and 2012	70
Table 29.	Key CCMA performance indicators	70

List of Legal Framework Indicators

Legal Framework Indicator 1. Labour administration

Legal Framework Indicator 2. Government commitment to full employment

Legal Framework Indicator 3. Unemployment insurance

Legal Framework Indicator 4. Statutory minimum wage

Legal Framework Indicator 5. Maximum hours of work

Legal Framework Indicator 6. Paid annual leave

Legal Framework Indicator 7. Maternity leave

Legal Framework Indicator 8. Parental leave

Legal Framework Indicator 9. Child labour

Legal Framework Indicator 10. Forced labour

Legal Framework Indicator 11. Termination of employment

Legal Framework Indicator 12. Equal opportunity and treatment

Legal Framework Indicator 13. Equal remuneration of men and women for work of equal value

Legal Framework Indicator 14. Employment injury benefits

Legal Framework Indicator 15. OSH Labour inspection

Legal Framework Indicator 16. Pension (public/private)

Legal Framework Indicator 17. Incapacity for work due to sickness/sick leave

Legal Framework Indicator 18. Incapacity for work due to invalidity

Legal Framework Indicator 19. Freedom of association and right to organize

Legal Framework Indicator 20. Collective bargaining right

Legal Framework Indicator 21. Tripartite consultations

List of abbreviations

ANC	African National Congress
BCEA	Basic Conditions of Employment Act
CCMA	Commission for Conciliation, Mediation and Arbitration
CIPC	Companies and Intellectual Properties Commission
GDP	Gross domestic product
ILO	International Labour Organization
LFS	Labour Force Survey
NEDLAC	National Economic Development and Labour Council
PSCBC	Public Service Co-ordinating Bargaining Council
QLFS	Quarterly Labour Force Survey
SABCOHA	South African Business Coalition on HIV & AIDS
SETA	Sector education and training authority
WFCL	Worst Forms of Child Labour
R	South African Rand

1. Economic and social context for decent work

South Africa held its first non-racial elections in 1994. The election ushered in a new democratic and political dispensation after years of apartheid and white political hegemony. Since 1994, the African National Congress (ANC)-led Government has engaged in a range of transformation initiatives to address the deep-rooted social and economic disparities resulting from the legacy of apartheid. Government's transformation agenda has been defined by a series of legislative and policy measures aimed at redressing the imbalances of the past in order to create an inclusive society characterized by shared and equitable economic growth.

The Constitution of the Republic of South Africa (1996) and the Reconstruction and Development Programme that were adopted at the dawn of the new democratic dispensation in South Africa provided a broad legal and policy framework to address the social and economic imbalances of the apartheid legacy, and to improve the quality of life of all South Africans. The Bill of Rights in the Constitution upholds and guarantees respect, protection and promotion of rights of all citizens. These include the protection of rights to equality, equal treatment and protection, unfair discrimination; human dignity, freedom of expression and association; fair labour practices, and to fair access to social security including social assistance.

The core objective of the ANC-led Government as set out in Vision 2014 and its Medium Term Strategic Framework and Programme of Action 2009–2014 is to halve poverty and unemployment by 2014, and to ensure a more equitable distribution of the benefits of economic growth. The commitment to the promotion of decent work and employment was clearly articulated in the run up to the last elections by the ANC and its alliance partners at the Polokwane conference in 2008 and in the 2008 election manifesto. The national elections saw a third consecutive victory for the ANC in 2009.

South Africa is a middle-income emerging economy with an abundant supply of natural resources and a gross domestic product (GDP) estimated at R3,209,142 million in 2012 (National Treasury, 2013a, p. 198). South Africa has well developed financial, legal, communications, energy and transport sectors, a stock exchange ranked favourably in the world, and modern infrastructure. Although previously reliant on its mineral wealth, South Africa's economy has become increasingly more diversified. Key sectors include tourism, mining, automotive assembly, information and communications technology, and the chemical industries. More than half of the gross national product is derived through exports and imports and trade liberalization has been one of the central policies of South Africa's development strategy since 1994. While trade liberalization saw exports increasing in volume and value, it did not result in the expected growth in employment or decrease in the poverty rate. Capital intensity in manufacturing, as in other sectors such as mining, contributed to a loss of employment for unskilled and semi-skilled workers.

GDP growth averaged 3 per cent during the first decade of the new democratic dispensation, and rose to 5.6 per cent in 2007. However, economic activity in South Africa began to take strain in 2008 as a result of several negative factors, including unprecedented power shortages; rising interest rates; hikes in global oil and food prices; a slow-down of private consumption; and a decline in foreign investment and exports as a result of the global financial and economic crisis.

GDP shrank by 1.7 per cent in 2009, recovered to show a small increase of 2.8 per cent in 2010, and exceeded 3 per cent in the following two years. The economic crisis has impacted negatively on national efforts to reduce unemployment in the country, as seen in the discussion below on employment and unemployment rates.

In nominal terms, GDP per capita nearly doubled between 2006 and 2012, increasing from R36.3 thousand (US\$ 5,366) to 61.3 thousand (US\$ 7,167).¹ After correction for inflation, the annual increase fluctuated widely, falling to 1.1 per cent in 2012.

Despite its middle income status, South Africa is characterized by high levels of poverty and high income inequality both between population (race) groups and within groups. Leibbrandt et al (2010) find that the Gini coefficient, the most oft-used indicator of income inequality, increased from 0.66 in 1993 to 0.70 in 2008.

Poverty and inequality in South Africa have race, gender and age dimensions with high concentrations found predominantly among Africans and in woman-headed households. Statistics South Africa's calculations, using the 2005–06 Income and Expenditure Survey data on earnings and social grants yielded an overall Gini coefficient of 0.72, with within-group coefficients highest for Africans at 0.63 and lowest for white people at 0.56. While these estimates suggest considerable within-group inequality, it also shows that inequality within groups is lower than inequality in the society as a whole. Statistics South Africa notes that if social grants and taxes were not in place, the overall Gini coefficient would be much higher, at 0.80 (Statistics South Africa, 2007, p.3).

Unfortunately, South Africa does not have an official poverty line against which poverty can be monitored. The debate as to the level at which the poverty line should be set has been on-going for many years. Analysis of data from Statistics South Africa's Living Conditions Survey of 2008/09 using five different poverty lines found that the poverty headcount ranged from 10.7 per cent, using the US\$1.25 purchasing power parity daily per capita measure, to 52.3 per cent using the upper-bound monthly per capita line of R577 (in 2009 rands: US\$ 66). This is equivalent to the food poverty line (R305) plus the average amount spent on non-food items by households whose total food expenditure was equal to the food poverty line. Whichever measure is used, poverty appears to have decreased between 2000 and 2006, before increasing again between 2006 and 2009 (Statistics South Africa, 2012, pp. 6-8).

In terms of the standard decent work indicators, the percentage of children aged 5 to 17 years not in school is relatively low and fell during the period 2006–2012. The rate is highest among the 15 to 17 year age group, which reflects the fact that children can legally leave school after the year in which they turn 15. It is also higher among the 5 to 9 year age group because the official age for school entry is six years. However, the percentage of children not in school in this age group has fallen dramatically during the period with the expansion of the reception year, Grade R. There is no difference between the percentage of girls and boys aged 5 to 17 years who are not in school.

South Africa is one of the countries hardest hit by the HIV and AIDS epidemic, with an estimated 5.3 million people living with the virus in 2013 (Statistics South Africa, 2013, p. 4). HIV prevalence is disproportionately high for females overall, in comparison to males and it peaks in the 30–34 year age group where an estimated 42.2 per cent of pregnant women

¹ Rand-dollar conversions use the rates found at <http://www.irs.gov/Individuals/International-Taxpayers/Yearly-Average-Currency-Exchange-Rates> (2007-2012) and <http://www.x-rates.com/average/?from=USD&to=ZAR&amount=1.00&year=2006> (2006).

attending antenatal clinics were HIV-positive in 2011 (Department of Health, 2011, p. 21). Recent national antenatal surveys suggest a stabilization of HIV prevalence among women younger than 20 years of age, as well as a decline among women 20 to 24 years of age.

The epidemic has impacted negatively on household income security through the loss of income caused by HIV-related deaths and illnesses. It has also put considerable strain across all sectors and levels of the economy as infection rates are high among the working-age population. The 2008 Demographic and AIDS model of the Actuarial Society of South Africa estimates the HIV prevalence rate at 15.3 per cent among the working-age population for 2012, with a male rate of 12.7 per cent and a female rate of 17.7 per cent. The male rate has fallen during the period 2006 to 2012, while the female rate has increased. When both male and female are combined, there has been a levelling off in prevalence in the most recent years. However, the impact will continue to be felt for many years to come. Economic sectors which are particularly badly affected by the epidemic include the transport, mining, construction, metals processing and agribusiness sectors.

Regular measures of income or earnings inequality beyond those discussed in Chapters 3 and 8 are not readily available. However, calculations based on average annual household expenditure suggest that the top percentile of households have a level of expenditure that is nearly 50 times greater than households in the bottom percentile. At the individual earnings level, in 2010, the P90/P10 ratio stood at 15.3, implying that the lowest-earning employee among the top 10 per cent of earners had earnings that were 15.3 times as large as the highest-earning employee among the bottom 10 per cent of earners. By 2012, the ratio had increased to 17.3. Earnings inequality is more severe among female employees than among male, with P90/P10 ratios of 19.4 and 14.8 respectively in 2012. As discussed above, at household level, the Gini coefficient was 0.70 in 2008.

Inflation ranged between 4.3 per cent and 11.5 per cent during the period 2006–2012. In 2006 and again in 2010, and through 2012 it fell within the Government's inflation target range of 3 to 6 per cent. However, the inflation rate is currently close to the top end of the target range.

Statistics South Africa revised both the methodology and the basket of goods used to calculate the consumer price index in 2008. Quintile 1, the wealthiest quintile of households, was given a weighting of 71.6 per cent in the overall basket, while quintile 5 was given a weighting of 1.8 per cent. As a result, the general inflation rate can differ substantially from that for the poorest households (Berkowitz, 2012). The inflation rate for quintile 1 (the poorest fifth of households) was higher than the overall average rate and the rate for quintile 5 (the wealthiest fifth) for three of the four years for which inflation rates are available by expenditure quintile in urban areas.

Wholesale and retail trade, as well as community, social and personal services have accounted for the largest shares of employment during the period 2006 to 2013. However, while the share of trade has fallen slightly, from 25.7 per cent to 22.0 per cent, that of community, social and personal services has increased from 17.7 per cent to 22.1 per cent. The third biggest sector in 2012 is financial services, which has increased its share during the period to overtake manufacturing. This trend probably in part reflects increased outsourcing of services such as cleaning and security. When workers who perform these tasks are directly employed by manufacturing companies they will be classified as belonging to the manufacturing sector, whereas once outsourced they will be classified as part of business services (see Tregenna, 2010).

In terms of occupation, elementary (“unskilled”) workers have accounted for the largest share – over a fifth – of employment throughout the period 2006 to 2012, albeit with a slight fall. The share of skilled workers (“craft and related trade”) has fallen much more rapidly, from 15.1 per cent in 2006 to 12.0 per cent in 2012. Meanwhile the top two occupations, of managers and professionals, have increased their share of total employment, from 6.8 to 8.5 per cent and from 3.6 to 5.7 per cent respectively.

The adult literacy rate, as measured by the percentage of the population aged 18 and above with at least Grade 7 completed, increased between 2006 and 2012. This is primarily due to improvements in the situation of younger women who are still in school. The impact of improved educational opportunities for younger people is also reflected in the increase in the adult secondary school graduation rate (those aged 18 and above who have completed at least grade 12) during the period 2006 to 2012. The rate of this increase has been higher for women than for men.

Table 1. Economic and social context for decent work – Economic indicators

Context Indicator	2006	2007	2008	2009	2010	2011	2012
Children not in school, in %	7.7	6.8	6.8	4.8	4.3	4.1	3.7
Male	7.6	6.8	6.9	4.9	4.1	4.0	3.7
Female	7.7	6.6	6.5	4.5	4.3	4.1	3.7
5-9	12.2	11.2	11.2	6.0	4.9	4.8	4.6
10-14	1.8	1.3	1.5	1.3	1.1	1.1	1.0
15-17	9.9	8.2	8.2	8.5	8.4	7.7	7.0
Estimated % of working-age population who are HIV positive	15.1	15.2	15.3	15.3	15.3	15.3	15.3
Male	13.6	13.5	13.3	13.1	12.9	12.8	12.7
Female	16.5	16.9	17.1	17.3	17.5	17.6	17.7
Income/Earnings inequality (income or consumption), P90/P10					15.3	16.7	17.3
Male					13.1	14.5	14.8
Female					18.5	18.6	19.4
Gini index	0.67		0.70				
Inflation rate (CPI), in %*	4.6	7.2	11.5	7.1	4.3	5.0	5.7
Quintile 1 urban				8.8	3.0	6.1	7.0
Quintile 5 urban				6.6	4.5	4.7	5.3
Employment by sector, in % of the total	13 419	13 467	13 867	13 455	13 061	13 265	13 523
Agriculture	6.4	5.5	5.7	5.1	4.9	4.6	4.9
Mining	2.5	2.7	2.4	2.4	2.3	2.3	2.6
Manufacturing	14.3	14.6	14.4	13.8	13.3	13.3	12.7
Utilities	0.7	0.6	0.7	0.7	0.7	0.6	0.7
Construction	7.6	7.8	8.4	8.4	8.1	7.9	7.6
Trade	25.7	24.8	22.9	22.1	22.4	22.6	22.0
Transport	5.1	5.3	5.7	5.7	5.9	5.7	6.0
Finance	10.1	10.8	12.2	13.1	12.7	12.9	13.1
Community and social services	17.7	18.5	19.0	19.8	20.9	21.5	22.1
Private household	9.8	9.3	8.7	8.8	8.7	8.4	8.3
Employment by occupation, in % of total	13 419	13 467	13 867	13 455	13 061	13 265	13 523
Managers	6.8	7.2	7.6	7.7	8.0	8.5	8.1
Professionals	3.6	4.2	5.5	5.3	5.6	5.7	5.9
Technician	10.6	10.7	10.7	11.4	11.2	11.1	11.3

South Africa Decent Work Country Profile

Clerk	10.0	10.2	10.6	10.9	11.1	10.6	10.5
Sales and services	13.3	13.0	12.9	13.7	14.3	14.7	14.8
Skilled agriculture	1.1	0.8	0.8	0.7	0.7	0.5	0.5
Craft and related trade	15.1	14.8	14.1	12.9	12.2	12.2	12.0
Plant and machine operator	8.3	8.7	8.7	8.8	8.5	8.4	8.3
Elementary	23.7	22.7	22.2	21.7	21.6	21.6	22.1
Domestic worker	7.6	7.6	6.9	6.9	6.7	6.6	6.6
Education of adult population							
Adult literacy rate, in %	77.2	78.1	78.6	81.3	82.0	83.0	83.4
Male	78.9	79.6	80.7	83.0	83.7	84.4	84.8
Female	75.6	76.8	76.7	79.8	80.5	81.7	82.1
Urban areas	84.5	84.9	86.4	88.2	88.8	89.3	89.5
Rural areas	62.1	64.1	63.3	68.2	68.9	70.6	70.7
Adult secondary school graduation rate, in %							
Adult secondary school graduation rate, in %	24.1	19.9	21.6	25.8	26.4	27.2	26.8
Male	25.6	24.3	25.4	26.4	26.9	27.6	27.1
Female	22.7	22.8	23.2	25.3	25.9	26.7	26.6
Urban areas	28.9	27.9	29.2	30.8	31.7	32.2	31.3
Rural areas	14.1	14.5	14.7	16.3	16.1	17.2	17.8
GDP, in billion R*	1 767	2 016	2 274	2 406	2 659	2 918	3 145
GDP growth (annual), in %	5.6	5.6	3.6	-1.5	3.1	3.5	2.5
GDP per capita, in R (000s)**	36.3	41.1	45.9	48.2	52.7	57.3	61.3
GDP per capita growth (annual), in %		5.5	0.3	-2.1	5.0	3.6	1.1
Wage/Labour share in GDP, in %							

Source:

* National Treasury, 2013a, p. 16; 2011, p.19; 2010, p. 19

** Per capita calculations use population estimates from the Actuarial Society of South Africa Demographic and AIDS model 2008, and average annual inflation rates as reported by Statistics South Africa

Legal Framework Indicator 1. Labour administration

Law, policy and institutions: The Constitution defines labour and employment primarily as a function of national government, although local governments are required to draw up integrated development plans that encompass employment among other issues.

Within the national sphere of government, the Department of Labour bears primary responsibility for employment policy and administration, especially as it relates to employers and employees. The Department of Public Service and Administration is responsible for public service employment, which encompasses national and provincial government employees, but does not currently extend to local government employees. The Department of Trade and Industry has a policy, implementation and administration role in respect of promotion and support to entrepreneurship.

The Department of Labour funds a number of bodies that have specific roles in policy making and administration. The National Economic Development and Labour Council must be consulted by Government when drawing up laws and policies related, among others, to labour and employment. The Employment Conditions Commission, established in terms of the BCEA, advises the Minister of Labour on minimum wages and conditions of work for vulnerable workers. The Commission on Employment Equity, established in terms of the Employment Equity Act, advises the Minister of Labour on employment equity. The Commission for Conciliation, Mediation and Arbitration, established in terms of the Labour Relations Act, is funded by, but independent of, the Department of Labour and is responsible for services to ensure observance of fair labour practices. Productivity South Africa aims to improve the productive capacity of the economy through social dialogue and enhanced collaboration between government, labour and business.

There are also several agencies that report to the Department of Labour but are funded from other sources. The Unemployment Insurance Fund, established in terms of the Unemployment Insurance Act, manages contributions and payments related to unemployment insurance of employees. It is funded by a dedicated tax on the wage/salary bill. The Compensation Fund, established in terms of the Compensation for Occupational Injuries and Diseases Act, manages compensation for disability, illness and death resulting from occupational injuries and diseases. It is funded primarily through risk-rated levies paid by employers. The Department of Labour was allocated R2, 415.2m for 2013/14, amounting to 0.4 per cent of the national votes.

Evidence of implementation effectiveness: No information provided by the ILO supervisory bodies.

Ratification of ILO Conventions: South Africa has not ratified the Labour Administration Convention, 1978 (No. 150).

Sources:

National legislation; NATLEX database.

(http://www.ilo.org/dyn/natlex/country_profiles.basic?p_lang=en&p_country=ZAF)

Scope of the law and employment contracts

The Basic Conditions of the Employment Act defines employees as persons who work or conduct business for another person or for the state for remuneration. The Act is applicable to all employees and employers (including to persons undergoing vocational training) other than members of the National Defence Force, the National Intelligence Agency and the South African Secret Service, and unpaid volunteers working for an organization serving a charitable purpose. The Act also does not apply to merchant seamen, except for the provision on severance pay and the section on sectoral determinations. However, merchant seamen as well as volunteers working for an organization serving a charitable purpose are protected against unfair dismissal under the Labour Relations Act. Specific provisions of the BCEA on termination of employment, leave, as well as the section on particulars of employment and remuneration do not apply to employees who work less than 24 hours in a month for an employer. Also, the section of the Act that regulates working hours does not apply to: workers in senior management; sales staff who travel and regulate their own working hours; workers who work less than 24 hours in a month; workers who earn more than R193,805 per year (as from 1 July 2013) and workers engaged in emergency work. The Minister of Labour may make a sectoral determination setting different minimum standards for specific sectors and may deem categories of persons to be employees. Civil servants are covered by the Public Service Act, 1994 and the Public Service Labour Relations Act, 1994.

Employment agreements may be concluded orally or in writing, and expressly or by implication. Certain employment agreements, such as for apprentices or clerks, must be concluded in writing. The Act also requires employers (except those who employ fewer than five employees and employees who

work for less than 24 hours a month or are domestic workers) to provide certain aspects of the terms of the employment agreement in writing. Employment agreements may be concluded for a definite or an indefinite period, and can provide for full- or part-time work, as well as temporary work.

Labour productivity is one of the standard international indicators. However, South Africa does not currently produce measures of productivity that are accepted by all social partners. At the time of writing, this matter is under discussion within NEDLAC.

The social partners proposed a number of additional indicators, which are reported on in the following paragraphs.

One of the areas for proposed additional indicators relates to income and employment by size of enterprise. Statistics South Africa conducts periodic large-sample surveys of public and private enterprises in different sectors that are registered for value added and/or income tax. The samples for these surveys are drawn on the basis of the size of the enterprises as measured by turnover. Different levels of turnover are used for the demarcation into large, medium, small and micro for the different industries. The surveys nevertheless provide an indication of what proportion of income and employment are accounted for by enterprises in each size group.

Table 2 summarizes the results of the most recent surveys for which the information has been published. Mining emerges as the sector most dominated by large enterprises in terms of both employment and income, while construction is the least dominated by large enterprises in terms of employment. However, food and beverages, as well as personal services are the least dominated by large enterprises in terms of income. Across all industry sectors the large enterprises account for a larger share of income than of employment.

Table 2. Percentage distribution of employment and income by enterprise size for various industry sectors

	Large	Medium	Small	Micro	Total	Year
Employment						
Accommodation	50	9	2	39	100	2009
Construction*	42	28	30	-	100	2011
Food & beverages	43	18	4	36	100	2009
Manufacturing	56	20	11	13	100	2008
Mining	96	2	1	1	100	2009
Motor	54	14	19	14	100	2009
Personal services	69	6	17	7	100	2008
Real estate & related	59	9	16	16	100	2010
Retail	63	10	15	12	100	2009
Wholesale	49	11	25	14	100	2009
Income						
Accommodation	76	5	1	18	100	
Construction	64	21	14	-	100	
Food & beverages	50	16	3	31	100	
Manufacturing	86	8	3	2	100	
Mining	99	1	0	0	100	
Motor	76	12	9	3	100	
Personal services	50	7	26	18	100	
Real estate & related	58	9	18	14	100	
Retail	73	8	12	7	100	
Wholesale	80	8	9	3	100	

* For construction there is a single group for small and micro.

The table does not include the information for several of the smaller industries or for the 2011 manufacturing survey, due to the fact that Statistics South Africa has not published the information in order to protect confidentiality. In 2001, the largest enterprises in manufacturing accounted for 82 per cent of income and 49 per cent of employment. In the electricity, gas and water supply sector, the percentages were 99 per cent and 98 per cent respectively, in post and telecommunications they were 99 per cent and 95 per cent, and in transport and storage 84 per cent and 69 per cent.

A second proposed area for additional indicators was company registrations and deregistration but unfortunately series data are not available for these due, at least in part, to the amalgamation of two entities to create the Companies and Intellectual Properties Commission (CIPC).

Prior to the introduction of the Companies Amendment Act of 2011, CIPC registered approximately 200,000 close corporations² and 27,000 companies per year. In 2011, when the Act was introduced, CIPC registered approximately 179,000 companies, and in 2012/13 the number increased to around 220 000. In the same year, the Commission registered 21,000 cooperatives, which was a record high. However, CIPC also deregistered approximately 150,000 entities (companies and close corporations) in 2012/13 as a result of non-compliance with requirements in respect of annual returns.³

A further possible indicator of economic growth, the formal sector, and the extent to which wealth is distributed relates to changes in the number of individual income tax-payers in the

² A form of company intended for small businesses that has less onerous managerial and administrative requirements than for other companies.

³ Information provided by Lindley Peters, CIPC

country. The indicator is obviously affected by changes in tax rates and thresholds, as well as the extent to which there is tax avoidance and evasion. It must thus be interpreted with some caution.

Table 3 shows the number of individual tax payers using several different measures as at 31 March of each year between 2006 and 2011. The number registered includes all those on the database of the South African Revenue Service, including some who have earnings below the tax threshold for that year, as well as some who have no income at all in the relevant year. In addition, the number of people liable to submit returns will include some individuals who may be required to submit a return in the given year but may not have had income in that year. Both this and the number registered are thus over-counts. The actual number of individual tax payers assessed, in contrast, is an under-count as not all individuals who must pay tax in a given year are assessed, although the final column shows that the vast majority are assessed. A further caveat concerns the fact that not all the income subject to individual income tax represents earnings through wages, salaries or commission. In 2011, for example, not more than 80 per cent of total assessed income was from earnings.

Table 3 suggests a steady increase in the number of individual tax payers registered over the period. The very large increase between 2010 and 2011 is due to a policy change which requires all income earners, including those below the tax threshold, to be registered.

Table 3. Individual tax payers, 2006–2011

Date (March)	Registered	Liable to submit returns	Assessed	Percentage assessed
2006	4 476 261			
2007	4 764 105	4 191 757	4 068 691	97%
2008	5 204 805	4 298 718	4 123 231	96%
2009	5 540 646	4 561 541	4 420 407	97%
2010	5 920 612	4 766 975	4 584 519	96%
2011	10 346 175	4 805 206	4 522 692	94%

Source: South African Revenue Service, 2012

2. Employment opportunities

In September 2010, the social partners in the National Economic Development and Labour Council (NEDLAC) and the International Labour Organization signed the Decent Work Country Programme for South Africa. The overall goal of the programme is to promote opportunities for people to obtain decent and productive work in conditions of freedom, equity, security and human dignity. The term ‘productive’ is to be understood in both an economic and a social sense. Specifically, the ILO considers work to be productive only if and when it matches its economic gains together with concomitant social progress i.e., through gains in individual and societal wellbeing. This is where the concept of decent work becomes particularly relevant, since it allows work to be assessed both in terms of its added value and its social dimensions, including the pay and working time it provides, as well as respect for rights and adherence to principles of non-discrimination, and the level of safety and social protection.

The high rate of unemployment in South Africa is recognized across the political spectrum as among the most serious issues facing the country. On the policy side, an important step forward was taken with the launch of the New Growth Path in late 2010. While the document does not in itself present a fully developed employment policy, it commits Government to generating consensus and taking the lead in identifying areas for large-scale employment creation, as well as developing a policy package to facilitate employment creation. Government is to do so through enhancing social equity and competitiveness, introducing changes that will mobilize domestic investment, and stimulating social dialogue to unite all stakeholders behind such growth in employment opportunities.

The New Growth Path document envisages the creation of five million new jobs by 2020. Its vision is that by that time more than half of all working-age South Africans will be in paid employment and unemployment will have fallen to approximately 15 per cent. From the first paragraph, the document is explicit in its aim to create decent work that will contribute to reducing inequality and defeating poverty.

As seen, the document was not put forward by Government as a complete and detailed policy, but instead provides a framework in which more detailed plans can be developed. The framework is structured around five job drivers, namely infrastructure for employment and development; improving job creation in the main economic sectors of the agricultural and mining value chains, manufacturing and services; seizing the potential of new opportunities in the knowledge and green economies; leveraging social capital in the social economy and public services; and, fostering rural development and regional integration.

The National Development Plan Vision 2030 is largely consistent with the New Growth Path but has a longer time horizon. The Plan targets a strict unemployment rate of 14 per cent in 2020 and 6 per cent in 2030, and an increase in the labour force participation rate to 65 per cent. It estimates that this will require the creation of 11 million additional jobs by 2030. In order to achieve this, the Plan emphasizes the necessity of improvements in educational outcomes, health, infrastructure and social security, as well as a “capable state” and less corruption (National Planning Commission, 2011). The Plan and its 18 key targets were endorsed by a Cabinet conference in late 2012.

The Industrial Policy Action Plan initially covered the period 2010/11 to 2012/13, but the approach was subsequently changed to provide for “rolling” annual plans that cover a ten-year period. These plans contain more detail in terms of actions that are proposed from the perspective of industrial development. The five core objectives of the plan are to facilitate diversification beyond traditional commodities and non-tradable services; to intensify the industrialization process and move towards a knowledge economy; to promote a labour-absorbing industrialization path; to promote a broader-based path that increases participation of the marginalized and disadvantaged; and, to contribute to industrial development on the African continent.

Phase II of the Expanded Public Works Programme commenced in April 2009, and builds on the experience of the first five years. The programme aims to deliver 4.5 million work “opportunities” (as distinct from necessarily full-time jobs) over five years, targeting unemployed unskilled or low-skilled individuals. In 2009/10, the programme provided 625,859 work opportunities, more than the target of 500,000 for that year (National Treasury, 2011b, p. 110). The second phase of the programme provides for performance-based incentive grants to be paid to provincial departments and local governments that deliver 35 per cent or more of their targets. A further innovation for the second phase was the introduction of a minimum level for the stipend, at R60 per day. This minimum is adjusted each year to compensate for inflation. The programme is unusual, from an international perspective, in its inclusion of social sector work, although most of the job opportunities are found in the infrastructure sector. The social sector work initially focused on early childhood development and home- and community-based care, but has since expanded into other services. The programme also includes a national youth service component.

The Code of Good Practice for employment and conditions of work for Special Public Works Programmes issued in 2002 in terms of the Basic Conditions of Employment Act stipulates that such programmes, which include the Expanded Public Works Programme, should aim to ensure that 60 per cent of beneficiaries are women, 20 per cent are youth aged 18 to 25 years, and 2 per cent are people with disabilities. The Code further states that programmes should seek to ensure that these targets are achieved in all occupational categories.

Legal framework Indicator 2. Government commitment to full employment

Law, policy or institutions: The New Growth Path of 2010 commits to the creation of 5 million additional job opportunities by 2020 and to bringing the unemployment rate down to 15 per cent by the same date. The document was drawn up under the leadership of the Minister of Economic Development in the Presidency, and the initiative is being driven from within the Economic Cluster of Cabinet.

The Industrial Policy Action Plan (IPAP2) 2010/11 to 2012/13, developed in line with the National Industrial Policy Framework of 2007, aims to attract R115 billion investment in pipeline projects, creating at least 43,000 direct and 86,000 indirect jobs between 2011 and 2014. The IPAP2 2013-2014 to 2015-2016 highlights the achievements of the Plan to date but does not predict the number of jobs to be created in coming years. The policy was drawn up under the leadership of the Ministry of Trade and Industry within the Economic Cluster of Cabinet.

The Expanded Public Works Programme was introduced in 2004 as a way of creating short-term, unskilled employment with training for the unemployed at the same time as creating assets and delivering services. The Programme was extended into a second five-year phase in 2009, during which time it aims to provide 4.5 million job opportunities.

In his budget speech of February 2011, the Minister of Finance announced the creation of a jobs fund for which R9 billion was allocated for the three-year medium-term expenditure framework period. Utilization of this fund has been slower than expected. The National Development Plan 2030 "Our Future-Make it Work" aims to eliminate poverty and reduce inequality by 2030. It sets as growth targets about 11 million additional jobs by 2030, a fall in the strict unemployment rate from 25 per cent to 6 per cent by 2030 and an increase from 54 per cent in 2010 to 65 per cent by 2030 in labour force participation.

Evidence of implementation effectiveness: No information provided by the ILO supervisory bodies.

Ratification of ILO Conventions: South Africa has not ratified the Employment Convention, 1964 (No. 122).

Sources:

National legislation; NATLEX database

http://www.ilo.org/dyn/natlex/country_profiles.basic?p_lang=en&p_country=ZAF.

Employment opportunities in South Africa, like other countries, have been affected by the global economic and financial crisis. This is clearly seen in many of the employment opportunity-related indicators. These indicators show overall a worsening situation in terms of employment despite the development of these key employment-related policies.

The employment-to-population ratio was more or less constant at just over 44 per cent for the period 2006 through 2008. This already relatively low level fell even further to 40.8 per cent in 2010 and increased only marginally to 41.0 per cent in 2012.⁴ The ratio is markedly lower for women than men, at 34.9 per cent for women and 47.5 per cent for men in 2012. There is an even greater difference between rural and urban areas, with the ratio at only 26.5 per cent in rural areas against 48.5 per cent in urban areas, also in 2010.

Not shown among the standard indicators are the stark differences in employment rates across population groups. These ranged from 37.1 per cent among Africans in the fourth quarter of 2012 to 63.1 per cent among whites. Coloured and Indian/Asian rates were in between these two groups. Provincially, the range was from 29.0 per cent in Eastern Cape to 51.9 per cent, in Western Cape.

The impact of the on-going global crisis is also seen in the unemployment rate, which was slightly above 22 per cent in the period 2006 through 2008, but increased to 25.1 per cent in 2012, i.e., ten percentage points higher than the New Growth Path goal. Again, women are

⁴ Most of the labour market-related indicators in this report are derived from data from the Labour Force Survey (LFS) and Quarterly Labour Force Survey (QLFS). For the LFS, March and September data were pooled and an average derived for the year. For the QLFS, all four quarters were pooled and an average derived. However, where a variable was not collected in all four quarters (for example, earnings in 2009 and union membership and collective bargaining in 2010) the last quarter was used.

worse off than men, with a rate of 27.8 per cent, against the 22.9 per cent for men. Here, the difference between rural and urban, at 3.7 percentage points, is smaller than the gender gap because of the large number of rural people (including those engaged in subsistence farming) recorded as not economically active and thus not included in the calculation of the unemployment rate.

The unemployment rate would be even higher than this if discouraged workers – those who have given up looking for work although they would like to work – were included. Such individuals are included in the calculation of the expanded unemployment rates, which stood at 36.2 per cent overall in 2012: 32.0 per cent for men and 40.9 per cent for women. The narrow rate ‘under-counts’ the full extent of unemployment for women more seriously than it does for men. In 2012, the effect of including discouraged workers was a 13.1 percentage point increase for women (from 27.8 per cent to 40.9 per cent), compared to a 9.1 percentage point increase for men (from 33.9 per cent to 32.0 per cent).

Again, there are also stark differences by race group when we consider unemployment. In the fourth quarter of 2012, the (narrowly defined) unemployment rate for Africans stood at 28.5 per cent, as against 23.5 per cent for coloured people, 13.0 per cent for Indian/Asian and 5.5 per cent for white people.

The percentage of youth aged 15 to 24 years who are neither in education nor in employment fluctuated little between 2006 and 2012, ranging from a low of 31 per cent in 2007 to a high of 33.9 per cent in 2010 (in 2012 it was 31.6 per cent). Among young women, the rate was 34.9 per cent in 2012, compared to 28.4 per cent for young men. This difference exists despite the fact that South Africa currently has more young women than young men in education even at the tertiary level. There is no clear trend over time in terms of the percentage of youth of this age in education and not in employment.

For older youth, those aged 25 to 34 years, the percentage neither in education nor employment is markedly higher than for their younger peers, at 46.5 per cent overall: 37.1 per cent for men and 55.6 per cent (over half) for women. The generally higher rate for the older youth can be explained by the fact that far fewer youth of this age will still be studying (and are thus excluded from the calculation because not economically active) than among those aged 15–24 years. The percentage of these older youth neither in education nor employment has, unlike the pattern for their younger peers, increased steadily since 2009. Further, while there is less than a percentage point difference between the urban and rural rates of unemployment for youth aged 15–24 years, for those aged 25–34 years the rural rate is 61.5 per cent (close on two-thirds of the youth) against 39.6 per cent (two-fifths) for urban youth.

Unlike the trend for the percentage of youth aged 15 to 24 neither in education nor in employment, there is a clear – and steep – increase in the youth unemployment rate for the period. By 2012, unemployment among those aged 15 to 24 years reached 51.5 per cent, while among 15 to 19 year-olds it was 63.5 per cent. The difference with the trend for those neither in education nor in employment suggests that education could be taking up some of the slack resulting from limited jobs opportunities. Across all age groups, women are more likely than men to be unemployed. However, while the gender difference in unemployment rates for the full economically active age group was 4.7 percentage points in 2012, among youth aged 15–24 years it was 7.4 percentage points. This again is counter-intuitive given that young women, overall, have higher educational achievement than young men.

A similar trend of increasing unemployment is found among older youth, although at a lower level than for younger youth, at 29.3 per cent overall in 2012, and 24.4 per cent for the 30–34 age group. The rate which is lower for older than for younger youth could, in part, reflect the difficulty that new (i.e., generally younger) entrants to the labour market, in particular, experience in finding jobs. The increase for the age group 25–34 years as a whole is 3.3 percentage points between 2006 and 2012. However, the increase is larger for young men – at 4.9 percentage points – than for young women (1.8 percentage points).

The expanded unemployment rate for youth aged 15–24 years was a very high 66.2 per cent in 2012 – suggesting that nearly two-thirds of youth who might want work could not find it. Again, the rate for youth aged 25–34 years is noticeably lower, but still shows that substantially more than a third of young people of this age (39.5 per cent) who want it do not have work.

The youth unemployment crisis sparked discussion of a youth wage subsidy and this policy option was proposed in the February 2011 budget speech of the Minister of Finance. However, there are concerns that such a subsidy could undermine workers' hard-won rights and also result in the replacement of existing workers by 'cheaper' youth.

Unemployment rates vary markedly by educational level, but not always in the expected direction. The unemployment rate among the small grouping with no formal education stood at 'only' 17.0 per cent in 2012, higher only than the rate for those with tertiary education. The unemployment rate was highest for those with incomplete secondary schooling, at 32.1 per cent. These unexpected patterns can be partly explained by the rapid increase in access to schooling over the last few decades. As a result, youth are far more likely than their elders to have some secondary education. While completion of secondary schooling sees some decrease in the unemployment rate, it is only with tertiary education that there is a substantial decrease.

Table 4 shows the distribution of tertiary students by area of study in 2011. Business and related studies emerge as the most common area, accounting for about three in every ten students. Education accounts for a further 17.6 per cent, and engineering for 8 per cent. If a broader categorization is used, business remains at 31 per cent of the total and education at 18 per cent, while the science, engineering and technology grouping accounts for 28 per cent and non-education humanities for 24 per cent.

Table 4. Tertiary students by area of study, 2011

Area of study	Number	% of total
Agriculture, agricultural operations and related sciences	16 915	1.8
Architecture and the built environment	10 804	1.2
Visual and performing arts	13 572	1.4
Business, economics and management studies	288 487	30.7
Communication, journalism and related studies	21 591	2.3
Computer and information sciences	36 891	3.9
Education	164 939	17.6
Engineering	77 152	8.2
Health professions and related clinical sciences	51 469	5.5
Family ecology and consumer sciences	2 967	0.3
Languages, linguistics and literature	18 594	2.0
Law	49 578	5.3
Life sciences	22 093	2.4
Physical sciences	24 753	2.6
Mathematics and statistics	21 359	2.3
Military sciences	45	0.0
Philosophy, religion and theology	5 844	0.6
Psychology	31 110	3.3
Public management and services	31 443	3.4
Social sciences	48 594	5.2
Total	938 200	100.0

Source: Department of Higher Education and Training

The country's Unemployment Insurance Act, which dates back to the pre-apartheid era, provides some protection for formal sector employees — other than employees of national and provincial government — who become unemployed. By end March 2012, the number of employers registered with the Unemployment Insurance Fund stood at 1,408,205, accounting for a total of 8,125,575 registered employees. In 2011/12, the Fund paid R5.7 billion in claims to 705,855 beneficiaries, of which R4.4 billion took the form of unemployment benefits paid to 555,969 claimants (National Treasury, 2013b, p. 425). The figure of 705,855 can be compared to the 7.4 million reported to be unemployed in the QLFS of the fourth quarter of 2011. However, the large difference in these numbers is explained by, among others, non-coverage of unemployed individuals who have not been previously employed, the restricted duration of benefits, and exclusion of those who resigned from their previous job.

The Act is redistributive to the extent that the contributions are set at a standard percentage of earnings for all employees, while the benefits paid are set at a higher percentage for low earners than for higher earners. Further, there is a ceiling to the benefit. The Act is also relatively unusual from an international perspective in that it covers domestic workers and seasonal workers. This is important from a gender perspective, given that the overwhelming majority of domestic workers are women, while women also predominate among casual agricultural workers.

Table 5 shows the number of both new registrations and total UIF registrations for the period 2009/10 to 2011/12. The domestic worker and minibus taxi registrations are shown separately as these represent two substantial sectors of the economy that until fairly recently were regarded as informal. By 2011/12, the table shows total registrations standing at 1.4 million

employers and more than 8.1 million employees. The numbers of employers and employees are very similar in the domestic sector, at over 600,000. For the minibus taxi sector, the number of registered employers is, surprisingly, more than the number of registered employees. For the remaining (commercial) sector, the number of employees is nearly ten times the number of employers. The domestic and minibus taxi employees together account for just under one-tenth of all registered employees.

Table 5. Employer and employee registrations for UIF, 2009/10–2011/12

Year	Domestic	Commercial	Taxi	Total
New employers registered				
2009/10	11 060	32 046	653	43 759
2010/11	15 472	47 774	286	63 532
2011/12	16 062	41 290	202	57 554
New employees registered				
2009/10	4 020	162 305	128	166 453
2010/11	4 218	167 675	156	172 049
2011/12	3 669	202 447	169	206 285
Total employers registered				
2009/10	591 045	689 905	6 169	1 287 119
2010/11	606 517	737 679	6 455	1 350 651
2011/12	622 579	778 969	6 657	1 408 205
Total employees registered				
2009/10	642 007	7 109 463	5 771	7 757 241
2010/11	646 225	7 267 138	5 927	7 919 290
2011/12	649 894	7 469 585	6 096	8 125 575

Source: Unemployment Insurance Fund, annual reports

An analysis of UIF claims covering the period 2005 through 2011 reveals that the number of claims increased sharply during the period, from approximately 43,000 in the first quarter of 2005 to about 179,000 in the third quarter of 2011. For the period as a whole, more than 40 per cent of claims were made by workers whose contracts had expired, 24 per cent by workers who had been dismissed, and 23 per cent by workers who had been retrenched. The shares attributable to dismissals and retrenchments increased over the period. Claims from retrenchment increased, in particular, in 2008 and 2009 reflecting the impact of the global crisis. The overwhelming majority (87 per cent) of claimants were claiming from UIF for the first time (Bhorat et al, 2012).

The analysis suggests under-representation of youth, women and workers with incomplete schooling when compared to their shares of potential UIF contributors. Further weaknesses of the Act include that it does not reach beyond the formal sector (or to formal sector workers who are not registered by their employers), and the period for which benefits are received is limited. Further, benefits are not available for the large number of people — among whom youth predominate — who have never been employed. The limitations of coverage, combined with increased efficiencies in recent years have allowed the Fund to accumulate a substantial surplus, despite the growing unemployment rate. This surplus has given rise to proposals from the Fund to extend the benefit period. It has also been used as one of the sources of funds for the Training Layoff Scheme described in Chapter 6.

Legal Framework Indicator 3. Unemployment Insurance

Law, policy or institutions: The Unemployment Insurance Act of 2001 establishes the Unemployment Insurance Fund, while the Unemployment Insurance Contributions Act of 2002 provides for compulsory and equal contributions from all employees and their employers to the Fund. These two acts together provide for short-term benefits equal to a portion of earnings for those who have contributed in respect of unemployment, maternity and adoption leave and illness. Since 2003, the Unemployment Insurance Act has covered all employees, including domestic workers and seasonal workers. Excluded categories are public servants, workers with registered learnerships, foreigners working on contract, and employees employed for less than 24 hours per month by a given employer.

Qualifying Conditions: For unemployment benefits, that the contract of employment was terminated or a fixed-term contract came to an end, that the person was dismissed in terms of section 186 of the Labour Relations Act, that the employer was declared insolvent, or – in the case of a domestic worker – that the employer died.

Benefits: A contributor is entitled to one day's benefit for every completed six days of employment as a contributor, up to a maximum of 238 days benefit over the four years preceding the date of application. Maternity benefits paid are not included when calculating benefits already paid during the four years. The percentage of previous earnings paid is in inverse proportion to the level of earnings, with a maximum percentage of 60 per cent for the lowest paid employees.

Financing: A tax equal to 2 per cent of the employee's earnings is paid, with half paid by the employer and the other half deducted by the employer from the employee's earnings. Additional funds are secured from interest on investments.

Evidence of implementation effectiveness: No information provided by the ILO supervisory bodies.

Coverage of workers in law: 9.5 million.⁵

Coverage of workers in practice: By end March 2012, the number of registered employers was 1,408,205, accounting for a total of 8,125,575 registered employees. In 2011/12, payments were made to 555,969 claimants in respect of unemployment benefits, 20,966 claimants for illness benefits, 104,407 claimants for maternity and adoption benefits, and 24,513 claimants for dependant benefits (National Treasury, 2013a, p. 425).

Ratification of ILO Conventions: South Africa has ratified neither the Social Security (Minimum Standards) Convention, 1952 (No. 102), Part IV, nor the Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168).

Sources:

National legislation; NATLEX database

(http://www.ilo.org/dyn/natlex/country_profiles.basic?p_lang=en&p_country=ZAF); National Treasury, 2013b, p. 425.

Internationally, there are two accepted measures of informality in the economy. The informal sector measure is based on the characteristics of the enterprise, while the informal employment measure is based on the characteristics of the individual worker.

Statistics South Africa uses different questions to determine whether employees on the one hand, and employers, own-account workers, and unpaid family workers on the other hand, are in the informal sector. For employees, categorization as belonging to the informal sector occurs if income tax is not deducted by the employer and if there are fewer than five employees in the establishment. For other categories of employed people, those who are registered for neither income tax nor value-added tax are considered to be in the informal sector.

The informal employment measure is defined to include all persons in the informal sector, as well as persons helping unpaid in a family business. In addition, it includes employees in the formal sector and persons employed in private households who are not entitled to basic benefits from their employer in the form of a pension or medical aid and who also do not have

⁵ Estimate of employees other than those employed by government from QLFS 2012, Quarter 4.

a written contract of employment. If employees have any one of these, they will be classified as in formal employment.

The percentage of employed people in the informal sector has fallen over the period, from 19.2 per cent in 2006 to 15.9 per cent in 2012. At the beginning of the period, women were more likely than men to be in the informal sector, but by 2012 the pattern had reversed. Throughout the period, rural workers were substantially more likely than urban workers to be in the informal sector.

Over a quarter (28.7 per cent) of employed people were estimated to be in informal employment in 2012. The percentage of employed people in informal employment fell from 32.9 per cent in the first year the QLFS was conducted to 28.7 per cent in 2012. On this indicator, as on others, women tend to be worse off than men, and those in rural areas are again markedly worse off than their urban counterparts. However, the percentage in informal employment is lower in 2012 than it was in 2008 for all the sub-groups examined.

If the focus is narrowed to employees, the percentage in informal employment fell from 28.7 per cent in 2008 to 21.5 per cent in 2012. In terms of the underlying factors taken into account in defining whether an employee is in informal employment, in 2012 approximately two-thirds of employees did not have employers who contributed to a medical fund, about half did not have employers who contributed to a pension fund, and about one-fifth did not have a written contract.

South Africa is relatively unusual among developing countries in terms of the low levels of self-employment. This is reflected in the fact that throughout the period 2006 to 2012 employees accounted for 80 per cent or more of employed people. Indeed, the percentage classified as employees increased during the period, to reach 84.8 per cent in 2012. A further 5.2 per cent of employed people were recorded as employers, with only 9.5 per cent recorded as self-employed or own-account workers with no employees. The fact that the percentage of employees increased over time, while the percentage of self-employed fell suggests that those affected by the economic crisis have not turned in substantial numbers to self-employment as an alternative option. The pattern could also reflect an increase in the relative importance of public sector employment as compared to private sector employment within this period.

Own-account workers and unpaid (or contributing) family workers accounted for a larger proportion of employed women than employed men throughout the period 2006 to 2012, but the gender difference narrowed markedly over time. By 2012, 10.6 per cent of employed women were recorded as own-account workers, compared to 9.5 per cent of employed men. The gender difference in this indicator could be partly explained by the greater number of women in rural as compared to urban areas, in that in 2012 the indicators stood at 15.1 per cent for women and men combined in rural areas, as compared to 8.5 per cent in urban areas.

Table 6. Employment opportunities

Decent Work Indicator⁶	2006	2007	2008	2009	2010	2011	2012
Employment-to-population ratio (15-64 years), in %	44.9	44.4	44.8	42.7	40.8	40.8	41.0

⁶ Most of the employment-related indicators are derived from the Labour Force Surveys (prior to 2008) and the Quarterly Labour Force Surveys (2008-2010). For the former set of surveys, the data from the March and September waves were generally pooled and averaged. For the latter set of surveys, the data from all four quarters were pooled and averaged. Pooling and averaging was not done where a particular variable was not collected in all four quarters.

South Africa Decent Work Country Profile

Male	52.8	52.2	52.7	49.7	47.7	47.4	47.5
Female	37.8	37.4	37.4	36.2	34.4	34.6	34.9
Urban areas	..	..	52.5	50.4	48.5	48.6	48.5
Rural areas	..	..	29.9	28.1	26.2	25.8	26.5
Unemployment rate, in %	22.6	22.3	22.8	23.9	24.9	24.9	25.1
Male	18.6	18.8	19.8	22.0	22.8	22.5	22.9
Female	27.2	26.4	26.4	26.2	27.5	27.8	27.8
Urban areas	..	..	21.2	22.8	24.0	24.1	24.3
Rural areas	..	..	27.9	27.3	27.9	27.5	28.0
Expanded unemployment rate, in %	35.0	35.3	30.2	32.9	35.8	36.2	36.2
Male	27.8	28.5	25.2	28.9	31.5	31.8	32.0
Female	42.3	42.2	35.8	37.4	40.7	41.1	40.9
Urban areas	..	..	25.6	28.0	30.3	30.4	30.5
Rural areas	..	..	42.2	45.5	49.7	51.0	50.8
Youth not in education and not in employment (15-24 years), in %	33.5	31.0	32.6	32.5	33.9	33.1	31.6
Male	28.2	25.7	28.2	28.6	29.9	29.8	28.4
Female	38.6	36.2	37.0	36.4	37.9	36.4	34.9
Urban areas	..	..	..	..	..	..	31.4
Rural areas	..	..	..	..	..	..	31.9
Youth not in education and not in employment (25-34 years), in %	48.6	46.4	45.5	43.0	44.1	44.6	46.5
Male	36.6	33.9	35.1	32.8	34.9	36.0	37.1
Female	59.6	57.9	55.0	52.5	52.7	52.7	55.6
Urban areas	..	..	..	..	..	..	39.6
Rural areas	..	..	..	..	..	..	61.5
Youth not in education and not in employment (15-34 years), in %	40.3	38.0	38.4	37.2	38.5	38.3	38.5
Male	31.9	29.3	31.2	30.4	32.1	32.6	32.3
Female	48.3	46.2	45.3	43.8	44.7	43.9	44.6
Urban areas	..	..	..	..	..	..	35.6
Rural areas	..	..	..	..	..	..	43.4
Youth unemployment rate (15-24 years), in %	46.7	46.5	45.5	48.1	50.5	49.8	51.5
Male	41.5	41.1	41.4	44.5	47.2	45.4	47.1
Female	52.3	52.8	50.5	52.3	54.6	55.0	56.9
Urban areas	..	..	44.0	46.6	49.6	48.8	50.0
Rural areas	..	..	49.7	52.1	53.2	52.7	56.2
15-19 years	52.1	55.2	53.5	58.5	64.1	63.6	63.5
20-24 years	45.5	44.7	44.1	46.4	48.6	47.9	50.0
Youth unemployment rate (25-34 years), in %	26.0	26.0	26.0	27.9	28.9	29.6	29.3
Male	20.7	20.9	21.2	24.7	25.0	25.8	25.6
Female	32.0	32.0	31.7	31.7	33.5	34.1	33.8
Urban areas	..	..	23.6	26.5	27.6	28.4	28.1
Rural areas	..	..	33.4	32.5	32.9	33.7	33.5
25-29 years	30.2	30.2	29.8	32.2	33.3	34.4	34.0
30-34 years	21.6	21.6	21.9	23.3	24.3	24.6	24.4
Youth unemployment rate (15-34 years), in %	32.6	32.5	32.3	34.1	35.4	35.5	35.8
Male	27.2	27.4	27.7	30.9	31.8	31.5	31.9

South Africa Decent Work Country Profile

Female	38.7	38.6	37.7	38.1	39.8	40.3	40.5
Urban areas	..	..	30.0	32.5	34.1	34.2	34.3
Rural areas	..	..	39.0	39.1	39.5	39.8	40.3
Youth expanded unemployment rate (15-24 years), in %	62.1	62.6	55.6	60.3	64.9	65.1	66.2
Male	55.7	55.5	50.3	56.0	60.9	60.9	61.6
Female	68.2	69.7	61.4	65.1	69.4	69.8	71.3
Urban areas	..	..	50.3	54.1	58.4	58.2	59.0
Rural areas	..	..	66.5	71.9	76.2	77.0	79.1
Youth expanded unemployment rate (25-34 years), in %	38.1	38.5	32.9	36.4	38.9	40.0	39.5
Male	29.3	29.9	25.8	30.7	32.7	33.7	33.8
Female	47.1	47.2	40.6	42.5	45.6	46.8	45.8
Urban areas	..	..	27.8	31.4	33.3	34.1	33.6
Rural areas	..	..	46.4	49.3	52.7	54.9	53.9
Youth expanded unemployment rate (15-34 years), in %	46.7	47.1	40.7	44.5	47.8	48.5	48.4
Male	38.5	39.0	34.3	39.4	42.4	43.0	43.1
Female	54.7	55.2	47.8	50.2	53.7	54.6	54.3
Urban areas	..	..	35.2	38.6	41.3	41.6	41.5
Rural areas	..	..	54.2	58.3	62.1	63.8	63.6
Unemployment rate by level of education, in %	22.6	22.3	22.8	23.9	24.9	24.9	25.1
None	16.3	13.2	14.6	16.4	16.5	17.2	17.0
Less than primary completed	20.3	20.4	21.6	22.3	24.3	21.8	22.9
Primary completed	23.5	24.2	23.9	23.2	24.1	25.3	25.1
Secondary not completed	28.3	28.9	29.2	30.5	31.5	31.7	32.1
Secondary completed	23.7	22.6	24.1	25.5	26.6	27.1	26.4
Tertiary	8.0	7.2	7.7	8.4	9.2	8.8	9.5
Other	13.9	9.8	15.4	16.8	16.5	14.6	15.0
Informal employment (proxy), in %	34.0	36.1	32.9	30.5	30.7	31.8	28.7
Male	31.2	32.9	30.4	28.1	28.8	28.9	27.5
Female	37.6	40.1	36.1	33.5	33.2	35.7	30.3
Urban areas	..	..	27.3	25.4	25.9	27.4	24.1
Rural areas	..	..	51.8	47.9	47.8	47.9	45.2
Informal employment components, % of employees	..	..	28.7	26.3	25.7	25.0	21.5
Employees without written contract	..	..	24.8	22.1	21.4	20.6	19.5
Employees without contributions to pension fund	..	..	53.5	52.7	52.8	51.2	49.7
Employees without contributions to medical fund	..	..	70.7	68.9	67.5	67.5	66.5
Informal sector, in %	19.2	17.3	16.6	15.8	16.5	16.4	15.9
Male	18.6	16.5	16.1	15.7	16.9	17.0	16.8
Female	20.0	18.2	17.2	16.0	16.0	15.5	14.7
Urban areas	..	..	13.5	13.0	13.6	13.8	13.1
Rural areas	..	..	27.0	25.6	26.7	25.8	26.0
Employment by status in employment, in %	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Employees	80.0	82.0	84.3	84.6	84.4	84.5	84.8
Employers	7.2	6.8	5.6	5.3	5.4	5.4	5.2
Self employed	12.1	10.8	9.2	9.2	9.3	9.3	9.3
Unpaid family worker	0.6	0.4	0.9	0.9	0.8	0.8	0.7
Other workers not classified	0.0	0.0	..	..	..	..	..

Proportion of own-account workers and contributing family workers in total employment, in %							
	12.7	11.2	10.1	10.0	10.2	10.0	10.0
Male	9.6	8.4	8.1	8.6	9.0	9.1	9.5
Female	16.7	14.8	12.8	11.9	11.7	11.2	10.6
Urban areas	..	..	8.2	8.3	8.4	8.5	8.5
Rural areas	..	..	16.6	15.8	16.5	15.5	15.1
Skills development							
Skills development levy (Rm)**	5 597.4	6 330.9	7 327.5	7 804.8	8 652.3	10 173.1	11 400.0
Learnership allowances**		424	397	644	501		

** Sourced from National Treasury, 2013a, p. 150 and p. 179.

South Africa does not have reliable statistics and series on foreign workers. However, a pilot module on migration conducted as part of Statistics South Africa's QLFS in the third quarter of 2012 found that 4 per cent of all individuals in the key economic age group of 15–64 years were reported to have been born outside of South Africa. The percentage was 6 per cent among the employed, 3 per cent among the unemployed, and 2 per cent among discouraged workers and the economically inactive. This translates into an employment rate of 65 per cent among foreigners, compared to 40 per cent for South Africans, and an unemployment rate of 16 per cent for foreigners, against 26 per cent for South Africans.

The 2011 Census found a higher share of foreign workers, with 8.8 per cent of working-age individuals (i.e., aged 15-64 years) reportedly born outside South Africa. Individuals born in other countries in the Southern African Development Community accounted for 3.2 per cent of the total working-age population, with a further 0.4 per cent born elsewhere in Africa (Budlender, 2013, p. 51).

With regard to skills development, the amount paid by employers in skills development levies (equivalent to 1 per cent of payroll) has more or less doubled in nominal terms over the period 2006/07 to 2012/13, from R5, 597 million to R11, 400 million. A sector-specific breakdown for this was not available. The “tax expenditure” of learnership allowances paid to employers varied between R397 and R644 million between 2007/08 and 2009/10. Unfortunately, there are no complete series on performance in relation to training. However, the publication *Estimates of National Expenditure 2013* shows the number of new registrations for artisanship vary between 23,517 and 26,301 for the years 2009/10 and 2011/12, while the number of artisan learners deemed competent increased from 8,238 in 2009/10 to 13,168 in 2011/12. Also in 2011/12 the number of learners trained in National Skills Fund projects stood at 37,793 (National Treasury, 2013b, p. 375 and p. 393).

The Progress Report 2011–2013 on the National Skills Development Strategy III released in October 2013 provides more detail in respect of achievements for more recent years. Table 7 summarizes performance in respect of skills development of both employed and unemployed learners over the two years 2011/12 and 2012/13. Overall, the table shows slightly less than 250,000 certificates issued in these two years. The number of employed learners is more than double the number of unemployed learners, despite one form of certification – internship – only being available for unemployed people.

Table 7. Certification of skills development for employed and unemployed learners, 2011/12–2012/13

	Employed	Unemployed	Total
Learners certificated through learnerships	24 006	42 283	66 289
Learners certificated through bursaries	2 272	2 918	5 190
Learners certificated through skills programmes	139 590	34 428	174 018
Learners certificated through internships		3 073	3 073
Total learners certificated	165 868	82 702	248 570

Source: Department of Higher Education and Training, 2013, p. 13.

Table 8 provides further detail for 2012/13. It shows the number of learners certified in the different types of programmes for each of the sector education and training authorities (SETAs). The Mining Qualification Authority accounts for the largest number of workers certificated for skills programmes and the second largest number of artisans. The Metal Engineering and Related Services SETA accounts for the largest number of artisans and learnerships.

Table 8. Certified learners by type of skills programme and status, 2012/13

	Artisanships	Learnerships		Skills programmes	
		Employed	Unemployed	Employed	Unemployed
AGRISETA	149	866	2 260	3 676	2 260
BANKSETA		58	859	465	465
CATHSETA	1 007	176	228	300	3 499
CETA	520	282	260	328	292
CHIETA	1 279	1 197	1 219	551	229
ETDP		119	478	164	61
EWSETA	37	983	781	236	0
FASSET		111	2 812	15 555	0
FOODBEV	36	827	598	985	0
FP&MSETA	0	374	711	411	134
HWSETA	0	730	939	522	120
INSETA		325	426	1 676	60
LGSETA	305	2 007	72	6 165	135
MERSETA	7 166	2 109	2 650	2 177	1 856
MICT		0	2 313	413	0
MQA	2 035	1 488	701	24 007	8 280
PSETA	5	311	0	689	0
SASSETA	0	500	997	3 335	0
SERVICES	841	123	243	0	0
TETA	169	37	237	4 884	545
W&RSETA	373	1 776	3 975	1 634	382
SETA sub-total	13 922	14 399 ⁷	22 759	68 173	18 318
INDLELA	1 355				
Total	15 277				

Source: Department of Higher Education and Training, 2013, pp. 61-66.

⁷ The publication gives the total as 14,333, but addition yields a total of 14,399.

The 2007 National Skills Survey (Human Sciences Research Council et al, 2008) provides some indication of the perceptions and experience of private sector levy-paying enterprises. Unfortunately, the response rate for the survey was low (16, 4 per cent) and it is very likely that the 1,557 firms that responded represent a biased sample. There are also difficulties in comparing the 2007 results with the 2003 survey in that the 2007 survey excluded firms with payroll greater than R500, 000, whereas the cut-off for 2003 was R250, 000. Because larger firms are more likely to engage in training, the two samples are not strictly comparable. The finding that the percentage of firms that engaged in training increased from 25 per cent of respondents in 2003 to 53 per cent in 2007 must therefore be treated with caution.

In terms of the nature of training, on-the-job training was most common, especially among small enterprises. Internships and skills programmes were the least common form of training. While 20 per cent of enterprises said that they had current employees registered for learnerships, only 9 per cent said that this was the case in respect of new employees.

The number of registered apprentices reported in the survey was only a sixth of the number of registered learnerships. Benjamin (2010) notes that the much-bemoaned decline in the number of apprenticeships preceded the Skills Development Act. He suggests that the main reason for the decline was that state-owned enterprises adopted a more market-oriented approach to training rather than, as previously, producing skills that could be used elsewhere in the economy. The survey found that, unlike for learnerships,⁸ apprenticeships for unemployed people were four times as common as apprenticeships for already employed people.

⁸ Learnerships are structured learning programmes which include both theoretical and practical components.

3. Adequate earnings and productive work

South Africa does not have a national minimum wage. It is thus not possible to calculate some of the standard statistical indicators for this area. However, indicators can be calculated in relation to median earnings. This is done in respect of both monthly earnings and hourly earnings.

In 2012, just under a third (33.0 per cent) of non-agricultural workers earned less than two-thirds of median monthly earnings. The percentage was slightly higher for median hourly earnings, at 35.6 per cent. Low wages were much more common for female workers, at 41.5 per cent, than for male workers, at 26.2 per cent when using the monthly measure, and 41.4 per cent and 41.4 per cent respectively when looking at hourly earnings. The situation was almost twice as likely for rural workers than for urban workers.

If agriculture is included, the percentage of workers earning less than the low-pay rate increases to 35.2 per cent on the monthly measure. The disparities in respect of urban and rural, and male and female workers remain.

Earnings less than two-thirds of the median were more common among self-employed workers (37.5 per cent monthly) than among employees (34.9 per cent monthly). Across both categories of status in employment, low earnings were more common for women than for men, and more likely for rural workers than for urban workers.

Table 9. Adequate earnings and productive work – Low-pay rate (below 2/3 of median monthly and hourly earnings)

Decent Work Indicator	2006	2007	2008	2009	2010	2011	2012
Low-pay rate (proportion of workers with monthly earnings below 2/3 of median monthly earnings), in %							
All workers, excluding agriculture	32.5	34.0	34.6	33.0
Male	25.7	27.0	28.0	26.2
Female	41.1	43.0	42.9	41.5
Urban areas	27.0	28.7	29.3	27.8
Rural areas	54.8	55.8	56.8	54.7
All workers, including agriculture	35.4	36.2	36.6	35.2
Male	28.9	29.8	30.6	29.1
Female	43.9	44.6	44.4	43.2
Urban areas		29.4	30.0	28.5
Rural areas		59.9	60.5	59.2
Workers predominantly in paid employment	34.9	36.0	36.6	34.9
Male	28.8	30.0	31.0	29.0
Female	42.5	43.6	43.6	42.1
Urban areas	26.5	29.5	30.1	28.2
Rural areas	53.7	61.0	61.5	60.2
Workers predominantly in self-employment	38.5	37.3	36.7	37.5
Male	29.1	28.3	28.6	29.3
Female	53.3	51.5	50.0	51.8

South Africa Decent Work Country Profile

Urban areas	..	..	..	30.3	29.0	29.0	30.4
Rural areas	..	..	..	59.0	56.0	56.5	54.8
Low- pay rate (proportion of workers with hourly earnings below 2/3 of median hourly earnings, excl. agriculture), in %							
All workers	..	..	..	36.3	34.2	33.6	35.6
Male	..	..	..	32.1	30.0	29.3	30.9
Female	..	..	..	41.6	39.8	39.2	41.4
Urban areas	..	..	..	29.1	27.3	28.4	30.2
Rural areas	..	..	..	61.2	58.7	55.8	58.0
Workers predominantly in paid employment							
Workers predominantly in paid employment	..	..	..	35.6	33.7	33.1	34.7
Male	..	..	..	32.1	30.0	28.2	30.4
Female	..	..	..	40.0	38.3	55.5	39.9
Urban areas	..	..	..	28.7	26.9	28.2	29.8
Rural areas	..	..	..	61.6	59.6	55.5	57.3
Workers predominantly in self-employment							
Workers predominantly in self-employment	..	..	..	40.3	37.4	36.8	40.7
Male	..	..	..	32.4	29.7	29.5	33.7
Female	..	..	..	52.9	49.6	48.6	52.7
Urban areas	..	..	..	31.9	29.5	29.5	32.9
Rural areas	..	..	..	59.6	55.3	56.6	60.7

In nominal terms, median earnings stood at R3, 033 per month in 2012, up from R2, 686 per month in 2009. The highest median was recorded in industry (which includes mining, utilities and construction), and the lowest was found in agriculture. The male median was R3, 500 with again a much lower R2, 500 for women. The urban median, at R3, 800, was more than double the R1, 700 median recorded for rural areas.

When earnings are examined separately for the self-employed and employees, both the gender and the urban-rural gaps are greater among the self-employed than among paid employees. For example, 52.7 per cent of female self-employed have low pay compared to 33.7 per cent of male self-employed, while among employees the percentages are 39.9 and 30.4 per cent respectively.

Further, in contrast to the pattern found for earnings below two-thirds of the median, average earnings are higher overall for the self-employed than for paid employees. These patterns suggest a higher degree of variation in earnings among the self-employed than among paid employees.

Table 10. Adequate earnings and productive work – Median nominal wages/earnings, by sector

Decent Work Indicator	2006	2007	2008	2009	2010	2011	2012
All wages/earnings	2 686	3 000	3 033	3 033
Agriculture	1 200	1 300	1 340	1 500
Industry	3 000	3 033	3 466	3 500
Services	2 800	3 000	3 033	3 200
Male	3 033	3 250	3 500	3 500
Female	2 166	2 200	2 500	2 500
Male/Female ratio	1.4	1.5	1.4	1.4
Urban areas	3 200	3 466	3 500	3 800
Rural areas	1 500	1 500	1 600	1 700

South Africa Decent Work Country Profile

Urban/Rural ratio	..	..	..	2.1	2.3	2.2	2.2
Wages/earnings from paid employment	..	..	..	2 650	2 900	3 000	3 100
Agriculture	..	..	..	1 200	1 278	1 300	1 460
Industry	..	..	..	3 000	3 033	3 466	3 500
Services	..	..	..	2 816	3 000	3 033	3 250
Male	..	..	..	3 000	3 200	3 466	3 500
Female	..	..	..	2 253	2 400	2 500	2 600
Male/Female ratio	..	..	..	1.3	1.3	1.4	1.3
Urban areas	..	..	..	3 100	3 300	3 500	3 791
Rural areas	..	..	..	1 500	1 500	1 560	1 700
Urban/Rural ratio	..	..	..	2.1	2.2	2.2	2.2
Wages/earnings from self-employment	..	..	..	2 800	3 033	3 033	3 033
Agriculture	..	..	..	6 000	5 833	6 000	7 000
Industry	..	..	..	3 000	3 033	3 033	3 033
Services	..	..	..	2 500	3 000	3 033	3 033
Male	..	..	..	4 000	4 333	4 333	4 333
Female	..	..	..	1 516	1 820	2 036	2 000
Male/Female ratio	..	..	..	2.6	2.4	2.1	2.2
Urban areas	..	..	..	3 640	4 116	4 333	4 333
Rural areas	..	..	..	1 500	1 516	1 800	1 820
Urban/Rural ratio	..	..	..	2.4	2.7	2.4	2.4

As noted above, South Africa does not have a minimum wage. However, minimum wages are set for some sectors considered vulnerable through ministerial and sectoral determinations in terms of the Basic Conditions of Employment Act. The Employment Conditions Commission which advises the Minister of Labour on determinations is made up of members nominated by the social partners. The sectors covered by such determinations include agriculture, civil engineering, contract cleaning, domestic work, forestry, hospitality, private security, taxi operators, and the wholesale and retail trade, alongside learnerships and children in performing arts.

The table below lists the minimum hourly wages applicable for each of the main sectors as at July 2013. As can be seen, some sectors provide different minima for different areas or for employers with a smaller or larger number of employees. What is not shown in the table is that several determinations provide a higher hourly rate for workers with shorter hours, while for the private security sector there is a lower wage (not shown in the table) during the first six months of employment. Overall, the lowest minima are prescribed for domestic workers and for workers in the minibus taxi industry (other than drivers, administrative workers and rank marshals for whom slightly higher minima are prescribed). The farm and forestry workers' minima were similar to those of domestic workers until early 2013 when serious labour unrest in Western Cape agriculture prompted a sharp upward revision of the minima. The highest minimum is set for civil engineering, at R20.50 per hour. The next highest, contract cleaning, is substantially lower than this, at R14.45 per hour in the higher-paying Area A.

Table 11. Minimum hourly wages in sectoral determinations as at July 2013

Civil engineering	20.50
Contract cleaning Area A	14.45
Contract cleaning Area B	13.09
Domestic work Area A	8.95
Domestic work Area B	7.65
Farm workers	11.66
Forestry	11.43
Hospitality <11 workers	12.39
Hospitality 11+ workers	13.81
Private security Area 1	12.52
Private security Area 2	11.88
Private security Area 3	10.73
Taxi drivers	12.71
Taxi other	8.89
Wholesale/retail Area A	12.69
Wholesale/retail Area B	11.17

Source: Department of Labour

These determinations by no means cover all employees in South Africa. Nevertheless, the Department of Labour estimates that approximately 5.8 million employees are covered by the eleven sectoral determinations in force, representing approximately half of all employees (Department of Labour, 2013b). All in all, together with the 2.2 million (20 per cent of employees) estimated to be covered by bargaining council agreements — which also determine minimum wages in sectors where the parties are considered sufficiently representative — a significant share of workers are actually covered by minimum wage regulation.

As seen in the table, the (un-weighted) minimum hourly rate for unskilled workers specified in the more than 30 bargaining council agreements for which information was available in September 2011 was in the same range as those specified for many of the sectoral determinations. However, while most of the sectoral determinations do not specify minima for higher-paid workers, such minima are specified in most bargaining council agreements. The Furniture Free State agreement specifies the lowest hourly wage (R6.99 per hour) while the highest is Metal and Engineering, at R23.85 per hour.

Table 12. Minimum wages specified in bargaining council agreements, September 2011

	Hourly	Weekly	Monthly
Unskilled	11.70	494.49	1 932.05
Semi-skilled	16.52	675.56	2 608.34
Skilled	23.42	880.82	3 654.85

Source: Department of Labour

Nevertheless, the bargaining council agreements and sectoral determinations, combined, leave some employees uncovered by minimum wage regulation, other than what can be negotiated on a company-by-company or plant-by-plant basis.

There are also problems in levels of compliance with the sectoral determinations. Table 13 shows the results of blitz inspections conducted in sectors in which there are sectoral

determinations. Of the total of just over 100,000 employers investigated, only 54 per cent were found to be complying. The compliance rate ranged from 47 per cent in hospitality to 63 per cent among domestic workers.⁹

Table 13. Results of blitz inspections, 2012/13

Sector	Inspections	Complying	% complying
Agriculture	15 899	9 588	60%
Domestic	20 634	13 065	63%
Forestry	436	235	54%
Hospitality	16 891	7 914	47%
Private Security	12 361	7 255	59%
Wholesale & Retail	35 571	17 381	49%
Totals	101 792	55 438	54%

While weaknesses in the labour inspectorate contribute to poor enforcement of the determinations, research has revealed a marked improvement in earnings of domestic workers after the determination for that sector came into effect (Hertz, 2005). Nevertheless, a substantial number of domestic workers are still not paid the specified minimum.

⁹ Information provided by Boikie Mampuru, Department of Labour

Legal Framework Indicator 4. Statutory minimum wage

Law, policy or institutions: The Basic Conditions of Employment Act provides for the setting of minimum wages through sectoral and ministerial determinations. The Minister of Labour issues these determinations after receiving advice from the Employment Conditions Commission. The Commission is made up of three independent labour experts appointed by the Minister of Labour, and two members each (one member and one alternative) for business and labour nominated by NEDLAC. The Labour Relations Act provides for the registration of bargaining councils which can draw up agreements which include minimum wages for the relevant sector.

Minimum wage levels: In July 2013, the minimum monthly wages prescribed by determinations ranged from R7.65 per hour for domestic workers in Area B to R20.50 per hour for civil engineering.

Evidence of implementation effectiveness: The CEACR noted from the Government’s report that the deliberations of the Employment Conditions Commission (ECC) concerning a possible sectoral determination for the welfare sector has not yet been completed, one of the difficulties being the implications of the establishment of a minimum wage in a sector where employment is fundamentally premised on volunteerism. The CEACR also noted that the investigation for a possible determination for the unskilled sector is planned for 2014–2015. As reported by the Government in 2012, a proposed amendment to the Basic Conditions of Employment Act has been before the Parliament with a view to creating the legal framework for the establishment of a possible determination that would cut across different economic sectors.

Coverage of workers in law: For determinations: 3.4 million employees (Godfrey et al, 2006).

Coverage of workers in practice: The determinations are not well enforced due to, among others, limitations of the labour inspectorate.

Ratification of ILO Conventions: South Africa has neither ratified the Minimum Wage Fixing Convention, 1970 (No. 131), nor the Minimum Wage-Fixing Machinery, (Agriculture) Convention, 1951 (No. 99). South Africa ratified the Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) on 28 December 1932.

Sources:

National legislation; NATLEX database

(http://www.ilo.org/dyn/natlex/country_profiles.basic?p_lang=en&p_country=ZAF); Godfrey, Maree and Theron, 2006, Development Policy Research Unit Working Paper 06/106. See also TRAVAIL legal database (http://www.ilo.org/dyn/travail/travmain.sectionReport1?p_lang=en&p_countries=ZA&p_sc_id=1&p_year=2009&p_structure=1).

CEACR direct request concerning Minimum Wage-Fixing Machinery Convention, 1928 No. 26

(http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:3084373,102888,South%20Africa,2012)

In addition to the sectoral determinations, there are several ministerial determinations that specify minimum rates of pay. These include ministerial determinations for the Expanded Public Works Programme and for the learnerships which are central to South Africa’s skills development strategy. The minimum for the Expanded Public Works Programme is set at R66.34 per day as from November 2012.

The sectoral determinations are gender-sensitive to the extent that they include sectors with substantial numbers of low-paid women workers, such as the domestic work sector, farm workers, hospitality, contract cleaning and wholesale and retail trade. Nevertheless, as already seen above, analysis of wages and salary data relating to the labour force as a whole reveals that the average female employee continues to earn less than the average male employee, including when one controls for educational level. Further earnings gaps are found between employees in different race groups. These patterns are seen clearly in the table below, which records median earnings of employees recorded in and averaged across the QLFS for 2010 through 2012.

Table 14. Median earnings of employees by gender, population group and educational level, 15–64 years

	2010	2011	2012
All			
No schooling	1 200	1 230	1 300

South Africa Decent Work Country Profile

Primary not completed	1 300	1 380	1 500
Primary completed	1 500	1 500	1 600
Secondary not completed	2 000	2 000	2 166
Secondary completed	3 500	3 900	3 900
Tertiary	10 000	11 200	12 000
Male	3 200	3 466	3 500
No schooling	1 300	1 408	1 400
Primary not completed	1 600	1 625	1 800
Primary completed	1 776	1 950	2 000
Secondary not completed	2 400	2 500	2 600
Secondary completed	4 000	4 300	4 333
Tertiary	11 962	12 700	13 000
Female	2 400	2 500	2 600
No schooling	900	1 040	1 100
Primary not completed	1 000	1 083	1 200
Primary completed	1 170	1 200	1 200
Secondary not completed	1 500	1 560	1 700
Secondary completed	3 000	3 300	3 350
Tertiary	9 000	10 400	11 000
Median earnings of employees by race and level of education			
African	2 166	2 383	2 500
No schooling	1 100	1 200	1 248
Primary not completed	1 300	1 300	1 500
Primary completed	1 500	1 500	1 516
Secondary not completed	1 800	1 900	2 000
Secondary completed	2 800	3 000	3 000
Tertiary	8 960	10 000	10 000
Coloured	2 700	3 033	3 250
No schooling	1 400	1 340	1 500
Primary not completed	1 400	1 473	1 600
Primary completed	1 516	1 516	1 733
Secondary not completed	2 166	2 383	2 383
Secondary completed	3 500	4 000	5 000
Tertiary	10 000	12 000	14 000
Indian	6 500	6 800	7 000
No schooling	2 000	4 500	2 000
Primary not completed	4 000	2 800	4 500
Primary completed	3 631	2 200	1 500
Secondary not completed	3 900	4 000	4 500
Secondary completed	5 750	5 500	6 000
Tertiary	12 000	13 500	12 000
White	9 800	10 000	10 006
No schooling	25 000		2 600
Primary not completed	5 000	5 000	5 000
Primary completed	1 213	2 166	2 340
Secondary not completed	5 500	6 000	6 500
Secondary completed	8 000	8 000	8 000
Tertiary	12 500	15 000	14 000

Overall, a woman employee's earnings were likely to be only 74 per cent of those of men in 2012. The pattern of lower female earnings is found across all occupations other than domestic work, where very few men are employed. Given that the occupational classification is based primarily on skill levels, this finding suggests that earnings discrimination on the basis of gender exists in South Africa. This mirrors other research that finds such disparities

after controlling for factors such as occupation and education (Shepherd, 2008). Such findings highlight the need for employment equity legislation (discussed below), including the need for such legislation to specify equal remuneration for work of equal value.

In terms of education, Table 14 shows the expected patterns of median earnings increasing as the level of education increases. This pattern is found overall, for male and female workers, and within the African and coloured population groups. This pattern is not found consistently among the white and Indian groups in which those with completed primary appear to have a lower median than those with not completed primary. This surprising pattern is almost certainly the result of the fact that the sample sizes of Indian and white workers with low levels of education are too small to generate reliable results.

If median earnings are compared across population groups, African earnings are the lowest, followed by colour, Indian and then white. This pattern holds both overall, and at the lowest and highest levels of education. As with discrimination found in gender, these patterns suggest that race discrimination continues to exist in South Africa.

4. Decent hours

The Basic Conditions of Employment Act (BCEA) sets the maximum number of ordinary hours at 45 per week, and the maximum number of overtime hours at ten per week. The clause is not applicable to managers and those earning more than R193, 805 per year, or to sales staff who travel and regulate their own working hours. The overtime rate is set at one-and-a-half times the normal hourly rate. Higher rates are specified for work on Sundays (except for those for whom this is an ordinary workday) and on public holidays.

Legal Framework Indicator 5. Maximum hours of work

Law, policy or institutions: The Basic Conditions of Employment Act and collective agreements. Overtime must be remunerated at one-and-a-half times the basic wage. The Minister may prescribe different working hours, not exceeding the limits set by the Act, on grounds of health and safety. Work time on Sundays must be remunerated at double the employee's wage for each hour worked; and one-and-a-half of the employee's wage if the employee usually works on Sundays. The Act defines ordinary hours of work as the hours of work and overtime work that an employee works during a day or a week in excess of ordinary hours of work. The provisions of the Act in respect of working hours do not apply to senior management, sales staff who travel and regulate their own working hours, workers who work less than 24 hours in a month, workers earning above R193,805 per year (as from 1 July 2013), and workers engaged in emergency work.

Number of hours allowed: 45 hours per week, nine hours per day, maximum ten hours overtime. A collective agreement may allow for working hours to be averaged over a period of up to four months, but in such cases the average of ordinary hours may not exceed 45 and the average of overtime may not exceed five hours per week.

Evidence of implementation effectiveness: No information provided by the ILO supervisory bodies.

Coverage of workers in law: 10.4 million employees (excluding managers) (Godfrey et al, 2006).

Coverage of workers in practice: The extent of compliance is not known, but the statistical indicators suggest that there is substantial contravention of the law.

Ratification of ILO Conventions: South Africa has neither ratified the Hours of Work (Industry) Convention, 1919 (No. 1) nor the Hours of Work (Commerce and Offices) Convention, 1930 (No. 30).

Sources:

National legislation; NATLEX database

(http://www.ilo.org/dyn/natlex/country_profiles.basic?p_lang=en&p_country=ZAF); Godfrey, Maree and Theron, 2006, op. cit. See also TRAVAIL Legal Database on working time (http://www.ilo.org/dyn/travail/travmain.sectionReport1?p_lang=en&p_structure=2&p_sc_id=1001&p_countries=ZA).

The percentage of workers working more than 48 hours per week dropped sharply after 2008, to 23.1 per cent in 2012. The BCEA sets ordinary hours of work at 45 hours per week, so a week of 48 hours thus suggests regular overtime work. The decrease after 2008 may therefore be the result of the global economic crisis, with reduced demand resulting in less need for overtime.

Throughout the period, male workers were markedly more likely than female workers to work excessive hours. This could reflect a larger proportion of women working part time, as well as a lesser ability of women to work overtime because of domestic demands. For the years for which data are available, rural workers were markedly more likely than urban workers to work overtime. This could reflect both the need for longer hours in agriculture, and perhaps lesser adherence to legal restrictions on working time in rural areas.

Time-related underemployment is defined for the purposes of this report as those working less than 35 hours per week who would have liked to work more hours. Time-related underemployment appears to have increased between 2006 and 2009, after which it fell to around

4.0 per cent. The male rate was markedly lower than the female rate throughout the period, which suggests that many women were not working part time out of choice. While, as seen above, rural workers were more likely than urban workers to work excessive hours, they were also more likely to work fewer hours than they would have liked. The measure probably undercounts this phenomenon in rural areas as the question would not capture those doing seasonal work.

The two indicators together resulted in 72.9 per cent of workers having hours that were neither excessive nor less than they would have liked in 2012. The indicator of workers with decent hours, as measured in this way, shows a clear increase from 2008 onwards. This pattern is found for both women and men. It is also found in urban areas, but in rural areas there is a decrease in the percentage of workers with working time in an acceptable range (as defined internationally and within the Decent Work Agenda) between 2011 and 2012.

Overall, just over half (51.5 per cent) of workers were reported to work 40 hours or fewer per week in 2012, a noticeable increase from the 44.4 per cent in 2006. The percentage of workers working 40 hours or fewer in 2012 was, however, only 24.8 per cent in agriculture and only 34.9 per cent in wholesale and retail trade. In contrast, more than three-quarters of domestic workers (private households), and about two-thirds of utilities and community and social service workers were reported to work 40 hours or fewer per week. The latter two industry categories include substantial numbers of government employees.

If working less than 35 hours per week (regardless of whether or not they would have liked to work more hours) is taken as a proxy for part-time work, the percentage of workers in this situation has been more or less constant at between 10 and 11 per cent between 2007 and 2012. Part-time work is far more common for women (at 15.3 per cent in 2012) than men (6.6 per cent). It is also far more common in rural areas (14.3 per cent) than in urban areas (9.3 per cent).

Table 15. Decent hours

Decent Work Indicator	2006	2007	2008	2009	2010	2011	2012
Excessive hours (workers with more than 48 hours per week), in %	28.9	27.2	28.0	25.5	24.1	23.9	23.1
Male	32.4	31.1	32.0	29.3	27.9	27.8	27.0
Female	24.5	22.2	22.7	20.5	19.1	18.8	18.0
Urban areas	..	..	25.1	22.5	21.1	21.4	20.1
Rural areas	..	..	37.9	35.8	34.6	32.8	33.7
Time-related underemployment rate, in %	3.5	2.8	4.5	4.7	4.2	3.9	4.0
Male	2.6	2.1	3.1	3.1	2.8	2.7	2.8
Female	4.6	3.8	6.3	6.8	5.9	5.3	5.6
Urban areas	..	..	4.0	4.3	3.7	3.4	3.5
Rural areas	..	..	6.1	6.3	5.7	5.7	6.0
Rate of workers with decent hours, in %	67.6	70.0	67.5	69.9	71.7	72.3	72.9
Male	64.9	66.8	64.8	67.7	69.3	69.4	70.2
Female	71.0	74.0	71.0	72.8	75.0	75.9	76.4
Urban areas	..	..	70.9	73.4	75.2	75.2	76.4
Rural areas	..	..	56.0	58.1	59.7	61.5	60.3
Workers working 40 hours or less per week	44.4	47.4	46.9	49.6	51.3	50.8	51.5
Agriculture	31.7	34.0	23.4	21.7	26.0	22.0	24.8

South Africa Decent Work Country Profile

Mining	30.0	33.1	35.5	35.8	33.2	40.1	39.4
Manufacturing	43.4	46.7	49.6	53.2	54.2	52.2	54.2
Utilities	57.2	59.0	60.2	64.7	61.4	61.0	66.5
Construction	40.1	43.4	40.4	46.0	47.9	48.1	48.5
Trade	37.0	38.4	32.2	32.7	34.0	34.1	34.9
Transport	32.6	37.4	35.2	37.2	39.0	38.9	41.2
Finance	42.9	45.2	48.2	49.9	51.9	52.4	51.1
Community and social services	60.5	63.7	65.9	68.1	69.5	67.7	67.8
Private household	57.8	62.8	69.1	74.3	76.4	76.5	76.8
Other			83.0	94.0	95.1	62.2	47.5
Part-time work (<35 hours per week)	12.0	10.8	10.9	10.9	10.6	10.1	10.4
Male	7.8	6.8	6.9	6.8	6.7	6.7	6.6
Female	17.4	15.8	16.2	16.1	15.5	14.6	15.3
Urban areas	..	..	9.8	9.9	9.5	8.9	9.3
Rural areas	..	..	14.5	14.2	14.4	14.5	14.3

In addition to specifying the number of hours to be worked per day and per week, the BCEA provides for a meal break after five hours of work and a rest period of at least 24 uninterrupted hours per week. It also provides for annual leave of a minimum of 21 consecutive days per year on full pay. As with other clauses, collective bargaining agreements may set higher levels of protection. For example, the public service agreement — which covers government employees in the national and provincial spheres — allows for 22 work days of paid annual leave.

While the provision for unpaid leave might seem relatively generous, survey data suggest that this benefit is not available for many workers who should be covered. Thus, for example, only 62 per cent of employees covered in the Quarterly Labour Force Survey of the fourth quarter of 2010 were reported to have this entitlement.

Legal Framework Indicator 6. Paid annual leave

Law, policy or institutions: The Basic Conditions of Employment Act provides for a minimum of 21 consecutive days of annual leave each year on full pay for employees covered by the Act.

Qualifying conditions: The provisions in respect of annual leave do not apply to workers who work less than 24 hours a month for an employer as well as to leave granted to workers in excess of their entitlement.

Levels of leave: Employees are entitled to 21 consecutive days of paid leave, or one day/hour for every 17 days/hours worked.

Evidence of implementation effectiveness: No information provided by the ILO supervisory bodies.

Coverage of workers in law: 11.6 million employees in 4th quarter 2012.

Coverage of workers in practice: Approximately 62 per cent of employees who should be entitled to paid leave are reported to get such leave, while 37 per cent are reported not to have this entitlement.¹⁰

Ratification of ILO Conventions: South Africa has ratified neither the Holidays with Pay Convention, 1936 (No. 52), the Holidays with Pay Convention (Revised), 1970 (No. 132), nor the Holidays with Pay (Agriculture) Convention, 1952 (No. 101).

Sources:

National legislation; NATLEX database

(http://www.ilo.org/dyn/natlex/country_profiles.basic?p_lang=en&p_country=ZAF); Calculated from raw data of Quarterly Labour Force Survey 2010, p.4. Whether the person was entitled was not known in the remaining 1 per cent of cases. See also Travail Legal Database on working time (http://www.ilo.org/dyn/travail/travmain.sectionReport1?p_lang=en&p_structure=2&p_sc_id=1001&p_countries=ZA).

¹⁰ Calculated from raw data of the Quarterly Labour Force Survey 2012; whether the employee was entitled was not known in the remaining 1 per cent of cases.

5. Combining work, family and personal life

The available national survey instruments unfortunately do not allow estimation of most of the standard decent work statistical indicators relative to combining work, family and personal life. Nevertheless, some quantitative indicators are available from the Time Use Survey conducted by Statistics South Africa in 2010.

Analysis of the 2010 Time Use data reveals that South African women aged 18 years and above spent an average of 256 minutes of the 1,440 minutes in a day on unpaid care work, while men spent an average of 104 minutes. For women, these minutes were made up of 217 minutes on household maintenance (housework), 34 minutes on care of persons in the household (mainly childcare), and 5 minutes on unpaid care for people from other households. For men, the comparable time spent was 93, 5 and 5 minutes respectively (Statistics South Africa, 2013b, pp. 22, 35).

Analysis based on the South African Time Use Survey of 2000 found that the gender gap in the time spent on care of persons is larger for South Africa than for the six other countries (Argentina, India, Japan, South Korea, Nicaragua and Tanzania) covered in an international study coordinated by the United Nations Research Institute for Social Development (Budlender, 2010a, pp. 1-45). This pattern is partly explained by the low rates of marriage in South Africa, as well as high rates of childbearing and rearing outside of marriage. In 2010, women living in households with their own children aged less than 18 years spent an average of more than an hour (80 minutes) on childcare, compared to the 13 minutes spent by men in a similar situation. Indeed, women who did not have children younger than 18 years old spent nine minutes on this task – nearly as much as men living with their own children of this age (Statistics South Africa, 2013b, p. 36).

Overall, if both paid and unpaid work are taken into consideration, in 2000 women were responsible for 57 per cent of time spent working in South Africa, despite their lower levels of employment (Budlender, 2010a).

The Basic Conditions of Employment Act provides some relief for women employees in respect of their reproductive role by providing for a minimum of four consecutive months of maternity leave when they give birth. Leave is also provided where a child is adopted. The Act does not provide for pay during this period, but the Unemployment Insurance Act provides for a proportion of the wage or salary to be paid to employees who have contributed to the Fund. In 2011/12, payments were made to 104,407 claimants for maternity and adoption benefits (National Treasury, 2013a, p.425).

Legal Framework Indicator 7. Maternity leave

Law, policy or institutions: The Basic Conditions of Employment Act provides for maternity leave, while the Unemployment Insurance Act provides for pay during maternity leave.

Qualifying conditions: All employees covered by the Act are entitled to maternity leave. Maternity pay in terms of the Unemployment Insurance Act is not available for public servants, foreigners on contract, and workers paid only through commission. A female employee must work for her employer at least 24 hours a month to be eligible for maternity leave.

Benefits (level and duration): Employees are entitled to a minimum of four consecutive months of maternity leave in terms of the BCEA. The Unemployment Insurance Act provides for 17 weeks of maternity pay at a level that varies based on the earnings, with the highest rate being 60 per cent of the ordinary earnings for those earning low amounts.

Financing: Payments are financed primarily through the Unemployment Insurance Fund contributions paid monthly by employers in respect of all employees registered with the Fund. The contribution, of 2 per cent of the wage/salary, is divided equally between the employer and employee.

Evidence of implementation effectiveness: No information provided by the ILO supervisory bodies.

Coverage of workers in law: 4.9 million workers in 4th quarter 2010 (females only).

Coverage of workers in practice: In 2011/12, maternity leave benefits were paid to 104,407 claimants for maternity and adoption benefits (National Treasury, 2013b, p.425).

Ratification of ILO Conventions: South Africa has ratified neither the Maternity Protection Convention, 1919 (No. 3), the Maternity Protection (revised), 1952 (No. 103), the Maternity Protection Convention, 2000 (No. 183) nor the Social Security (Minimum Standards) Convention, 1952 (No. 102).

Sources:

National legislation; NATLEX database

(http://www.ilo.org/dyn/natlex/country_profiles.basic?p_lang=en&p_country=ZAF); National Treasury, 2013, pp. 425. See also Travail Legal Database on maternity protection (http://www.ilo.org/dyn/travail/travmain.sectionReport1?p_lang=en&p_structure=3&p_sc_id=2000&p_countries=ZA).

While legislation allows for maternity leave, there is no legislative provision targeting parental leave for men specifically. Instead, male employees are expected to use the provisions of the BCEA in respect of paid family responsibility leave. Employees are entitled to a total of a minimum of three days per year for this type of leave. While the Act names the birth of a child, and illness or death of a child, including an adopted child, as grounds for claiming such leave, an employee will not be entitled to three days at the time of birth of a child if he has already used his family responsibility leave entitlement for other family occurrences.

Legal Framework Indicator 8. Parental leave

Law, policy or institutions: The Basic Conditions of Employment Act provides for family responsibility leave, which can be used, among others, for paternity leave purposes. The Act specifically refers to the birth of a child, and illness or death of a child, including an adopted child. (Adopting parents are covered in terms of maternity leave and pay.)

Qualifying conditions: Employees who have been employed for at least four months and who work at least four days a week.

Benefits (level and duration): The Act provides for up to three days per year of paid family responsibility leave, irrespective of the reason for the leave request.

Financing: The employer is responsible for payment of the full wage or salary.

Evidence of implementation effectiveness: No information provided by the ILO supervisory bodies

Coverage of workers in law: 11.6 million, although female workers would – except in cases of lesbian couples – apply for maternity rather than parental leave.

Coverage of workers in practice: Unknown.

Ratification of ILO Conventions: South Africa has not ratified the Workers with Family Responsibilities Convention, 1981 (No. 156).

Sources:

National legislation; NATLEX database

(http://www.ilo.org/dyn/natlex/country_profiles.basic?p_lang=en&p_country=ZAF); TRAVAIL legal database

(http://www.ilo.org/dyn/travail/travmain.sectionReport1?p_lang=en&p_structure=3&p_sc_id=2000&p_countries=ZA). See also Travail Legal Database on maternity protection (http://www.ilo.org/dyn/travail/travmain.sectionReport1?p_lang=en&p_structure=3&p_sc_id=2000&p_countries=ZA).

Despite the legislative provisions, which should cover all employees, the Quarterly Labour Force Survey of 2012 records only just over half (53.6 per cent) of employees as being entitled to maternity or paternity leave.¹¹ Women workers were somewhat more likely to be reported as having such an entitlement, but even among women less than three-fifths (55.3 per cent) were said to be entitled. Reported levels of entitlement were much lower in rural than urban areas. Unfortunately, the available data do not distinguish whether the maternity leave is paid or unpaid.

Table 16. Combining work and family life

Decent Work Indicator	2006	2007	2008	2009	2010	2011	2012
Proportion of employees entitled to maternity/paternity leave	53.2	54.1	53.6
Male	50.8	52.8	52.2
Female	56.3	55.8	55.3
Urban areas	58.1	58.7	58.3
Rural areas	34.4	36.3	35.7

Trade unions have attempted to win parental rights agreements since the early 1980s. The South African Commercial, Catering and Allied Workers and its predecessors have been particularly active in this area, winning their first such agreement – with OK Bazaars – in 1983. Agreements have also been won in the metal and engineering field, in the chemical industry, and in clothing and textiles (Budlender, 2010b).

In addition to parental leave, low-earning workers who are the primary caregivers of children under 18 years of age are entitled to the child support grant. This non-contributory grant,

¹¹ The question is not restricted to paid leave.

which is paid on a monthly basis, had a value of R280 as at end December 2012, but by October 2013 had increased to R300. The means test is set at ten times the amount of the grant, and would thus exclude all those earning more than R2, 800 in December 2012.

While the QLFS does not allow for estimation of many of the standard decent work indicators, it does allow for some further indicative findings pertaining to the impact of family responsibilities on employment. Thus, for example, in the survey of the fourth quarter of 2012, 11 per cent of the women who did not look for work or try to start a business in the previous four weeks gave their homemaking responsibilities as the reason, while this reason was offered by less than half a per cent of the men. Similarly, 13 per cent of women who had previously worked said that the reason they had left their last job was related to pregnancy, caring for family members or other family and community responsibilities, while these reasons were given by only 1 per cent of men.

6. Work that should be abolished

The Basic Conditions of Employment Act sets 15 as the minimum possible age for legal employment of a child as an employee. In practice, however, most children of 15 cannot be legally employed, as the Act prohibits the employment of a child who is under the minimum school-leaving age and the South African Schools Act makes schooling compulsory for children between the ages of 7 to 15 or until they have completed grade nine. Most children will complete grade nine at the earliest in the year in which they turn 15.

Work that is prohibited by the BCEA is regarded as child labour because the Act prohibits the work on the basis that it is harmful for children. However, not all children who work should be regarded as involved in child labour. South Africa's Child Labour Programme of Action (CLPA) defines child labour as "work by children under 18 which is exploitative, hazardous or otherwise inappropriate for their age, detrimental to their schooling, or social, physical, mental, spiritual or moral development".

There is a ministerial determination in respect of children working in performing arts which regulates this form of work, and stipulates that employers require permission from the Department of Labour for employing children in this type of work, while specifying minimum conditions of work and other forms of protection.

Labour force surveys are not able to capture all forms of child work. In particular, a household survey is unlikely to capture illegal activities or activities about which household members feel shame. A household survey will also not fully capture activities that are mostly carried out by people who are not living in households, for example those living on the street. These exclusions mean that these surveys will not capture some forms of work that are considered worst forms of child labour (WFCL) under the Worst Forms of Child Labour Convention, 1999 (No.182) which South Africa ratified in 2000. The WFCL Convention includes several pre-defined worst forms, including trafficking of children, commercial sexual exploitation of children and use, procuring or offering of a child by others for illegal activities, including trafficking or production of drugs. None of these WFCL is likely to be captured by labour force surveys. However, these activities are covered by the multi-sectoral Child Labour Programme of Action, for which the Department of Labour is the lead agency.

South Africa's second Survey of Activities of Young People (SAYP) was conducted as an add-on module to the Quarterly Labour Force Survey of the third quarter of 2010. This module included questions specifically designed to capture those forms of child labour that can be captured by such a survey. The survey was used to generate a set of indicators developed for the purposes of monitoring the Child Labour Programme of Action. As a result, any child who was rated as being vulnerable in respect of any one of the indicators was counted as being in child labour.

Overall, 784,000 children were revealed by the SAYP as being vulnerable on at least one of the indicators (Department of Labour, 2011). This is slightly less than the 847,000 found in this position in the add-on module to the 2006 Labour Force Survey despite the fact that the SAYP covered children 7–17 years while the 2006 survey covered children 10–17 years. Girls were more likely than boys to be affected in 2010, while, in 2006 there was little gender difference. As in 2006, children aged 10 to 15 years were more likely than younger and older children to be found in child labour.

Overall, the SAYP revealed, in comparison to 2006:

- 116,000 (93,000 in 2006) children appeared to be doing work prohibited by the BCEA;
- 431,000 (383,000 in 2006) appeared to be working excessive hours for their age when all types of work were combined;
- For 11,000 (108,000 in 2006) there were indications that school enrolment was affected by work;
- 36,000 (57,000 in 2006) children appeared to have been absent from school because of work-related activities; and
- 290,000 reported having been injured at work or exposed to hazardous conditions. In 2006, 183,000 children reported having been injured while working, but there was no question on hazardous conditions.

Legal Framework Indicator 9. Child labour

Law, policy or institutions: The Basic Conditions of Employment Act prohibits employment of children less than 15 years of age. The Act prohibits work for children aged 15 to 17 years where it is inappropriate for the child's age, places at risk the child's education, well-being, health or development, or has been expressly prohibited by the Minister of Labour. The Government stated in its report to the CEACR that education is compulsory from the age of 7 to 15 in terms of the South African Schools Act No. 84 of 1996 which provides for penalties in case of violations. A ministerial determination issued in terms of the BCEA governs employment of children in performing arts. The Children's Act, as amended, prohibits child trafficking, use of children to commit crime, and commercial sexual exploitation of children. The CEACR noted that Sectoral Determinations 6 to 14 cover the employment of children in various sectors. The CEACR pointed out that the Children's Act of 2005 provides for assistance to child victims of trafficking and for the safe repatriation to the country of origin of child victims of trafficking. While the Constitution permits emergency legislation providing for the conscription of children between the age of 15 and 18, the Government has stated in a report to the CEACR that section 52 of the Defence Act only permits the compulsory conscription of persons above the age of 18 even in a state of emergency. The CEACR also noted the adoption of the "Regulations on hazardous work by children in South Africa", on 15 January 2010. The Child Labour Programme of Action was first adopted in 2003 and specifies multi-sectoral actions against child labour. The second phase of the CLPA was adopted by Cabinet in February 2009. Implementation of the CLPA is coordinated by an Implementation Committee with representation from government departments, organized business and labour, and civil society. The Department of Labour is the lead agency. Government has indicated that it aims to reach the 2015 target for the eradication of the worst forms of child labour during the second phase of the CLPA.

Evidence of implementation effectiveness: Statistics South Africa conducted a second Survey of Activities of Young People (equivalent to a child labour survey) as an add-on survey to the Quarterly Labour Force Survey of the third quarter of 2010.

The CEACR noted with interest that Regulations 8 and 9 of the Basic Conditions of Employment Act contain a list of 38 types of work prohibited to children under the age of 18 years, including work where remuneration is based on the completion of specific tasks and night work. The CEACR urged the Government to increase school attendance rates and reduce school drop-out rates, in particular for secondary schooling, in order to prevent the worst forms of child labour. The CEACR noted the Government's indication that four cases of child trafficking were reported in the North West Province in 2010. As noted from the Government's report to the Committee on the Elimination of Discrimination Against Women (CEDAW) of 24 March 2010, South Africa has been identified as one of the countries in the region that is used by organized traffickers of human beings as a destination, transit and country of origin of victims, including child victims (CEDAW/C/ZAF/2-4, paragraphs 6.6 and 6.9). As a result of the CLPA project, 186 children were prevented from being trafficked or withdrawn from trafficking through the provision of educational or training opportunities. The CLPA identified that the phenomenon of child scavenging must immediately be dealt with. The Government has reported several measures it has undertaken to address this problem. The CEACR noted that despite large-scale programmes and the National Plan of Action 2009–2012 for orphans and other children rendered vulnerable by HIV and AIDS, there were about 1,400,000 HIV and AIDS orphans in South Africa (Epidemiological Fact Sheet for 2008 of UNAIDS).

Ratification of ILO Conventions: South Africa ratified the Minimum Age Convention, 1973 (No. 138) on 3 March 2000; and the Worst Forms of Child Labour Convention, 1999 (No. 182) on 7 June 2000.

Sources:

National legislation; NATLEX database

(http://www.ilo.org/dyn/natlex/country_profiles.basic?p_lang=en&p_country=ZAF);

CEACR, direct request concerning Convention No. 138, 2009

(http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:2316589,102888,South%20Africa,2009);

CEACR, direct request concerning Convention No. 182, 2009

(http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:2309446)

CEACR, observation concerning Convention No.182, 2011

(http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:2700599,102888,South%20Africa,2011)

CEACR, direct request concerning Convention No.182, 2011

(http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:2700600)

CEACR, observation concerning Convention No.138, 2011

http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:2699938,102888,South%20Africa,2011)
CEACR, direct request concerning Convention No.138, 2011
http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:2699939,102888,South%20Africa,2011).

Forced labour is outlawed in the Constitution, and this prohibition is repeated in the Basic Conditions of Employment Act. Both the development of the Child Labour Programme of Action and South Africa's hosting of the Rugby World Cup in 2010 gave impetus to the development of specialized legislation on trafficking: the Prevention and Combating of Trafficking in Persons Act, no. 7 of 2013.

Legal Framework Indicator 10. Forced labour

Law, policy or institution: The Bill of Rights in the Constitution states that no one may be subjected to slavery, servitude or forced labour. The Basic Conditions of Employment Act prohibits forced labour and states that no one may cause, demand or impose labour on anyone else either for their own benefit or for the benefit of someone else. In 2013, the South African Parliament passed the Prevention and Combating of Trafficking in Persons Act (no. 7 of 2013).

Evidence of implementation effectiveness: As noted in Legal Framework 9, South Africa has been identified as a destination, transit and country of origin for human trafficking, including child victims. While noting the adoption of the Criminal Law (Sexual Offences and Related Matters) Amendment Act of 2007, which addresses trafficking for sexual purposes, the CEACR expressed its hope that comprehensive legislation on human trafficking will be adopted in the near future. While Chapter V of Service Order 5 of the Department of Correctional Services authorizes the employment of prisoners by employers requiring skilled labour with the permission of the Commissioner, the CEACR requested South Africa to indicate which provisions require the consent of the prisoners concerned to work for private enterprises. The Committee noted the Government's White Paper on Traditional Leadership and Governance, issued in July 2003 by the Minister of Provincial and Local Government, indicating that it would introduce legislation to regulate the accountability of traditional leadership and authorities. The Government stated that no legal proceedings have been undertaken in respect of sections 48 and 93(2) BCEA under which persons who cause, demand or impose forced labour are punishable with a fine or imprisonment for up to three years. The CEACR expressed the hope that Government will bring certain sections of the Merchant Shipping Act of 1951, which provide for the imposition of sanctions involving compulsory labour as a means of labour discipline and for the forcible conveyance of seafarers on board ship to perform their duties, in line with Convention No 105.

Ratification of ILO Conventions: South Africa ratified both the Forced Labour Convention, 1930 (No. 29); and the Abolition of Forced Labour Convention, 1957 (No. 105) on 5 March 1997.

Sources:

National legislation; NATLEX database

http://www.ilo.org/dyn/natlex/country_profiles.basic?p_lang=en&p_country=ZAF);

CEACR, direct request concerning Convention No. 29, 2010

http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:2332254,102888,South%20Africa,2010);

CEACR, direct request concerning Convention No. 105, 2010

http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:2332276,102888,South%20Africa,2010).

CEACR, direct request concerning Convention No.105, 2012

http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:3057685,102888,South%20Africa,2012

CEACR, direct request concerning Convention No. 29, 2012

http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:3057658,102888,South%20Africa,2012

7. Stability and security of work

Stability and security of work have become an ever more important concern in the light of general shifts in the workplace away from permanent employment, combined with the impact of the global economic and financial crisis.

The Labour Force Survey included a question that identified temporary, part-time and seasonal workers. Table 17 shows that slightly less than a quarter of paid employees were working on a temporary, casual or seasonal basis in 2006 and 2007. In both years, women were somewhat more likely than men to be employed on one of these bases.

Unfortunately, the Quarterly Labour Force Survey does not have a question that asks whether work is done on a temporary, casual or seasonal basis. Instead, for these years the estimates reflect the percentage of paid employees who do not have permanent contracts. For all employees combined, this percentage stood at 35.9 per cent in 2012, with women more likely than men not to have permanent contracts, and rural workers substantially more likely than urban workers to be in this situation. For all groups, the percentage of workers reporting permanent contracts declined throughout the period 2008 to 2012.

Table 17. Stability and security of work

Decent Work Indicator	2006	2007	2008	2009	2010	2011	2012
Proportion of paid employees in precarious types of work (temporary, casual, and seasonal workers 2006–2007; non-permanent 2008–2012), in % of all paid employees	24.2	23.5	37.7	36.3	35.3	35.5	35.9
Male	23.5	22.7	36.5	34.5	33.7	34.2	34.1
Female	25.2	24.6	39.4	38.6	37.4	37.2	38.1
Urban areas	..	..	33.6	32.3	31.5	31.6	31.8
Rural areas	..	..	53.2	51.0	49.8	50.8	51.5

The Basic Conditions of Employment Act regulates termination of employment and severance pay. It specifies the period of notice required, which is a minimum of four weeks for those who have been employed for at least a year. It includes a provision stipulating that a worker who has been living in employer-provided accommodation must be allowed to stay in the accommodation for at least a month after dismissal. Severance pay is set at one week's pay at the current rate of pay for every year of service.

The Labour Relations Act defines what constitutes an unfair dismissal. It also defines unfair labour practices, which can occur during dismissals for operational requirements. Codes of Good Practice have been drawn up in respect of both dismissal and dismissal based on operational requirements. Such codes (of which other examples are referred to in other chapters) are discussed in the National Economic Development and Labour Council where agreement is reached before they become official. These particular codes of good practice provide guidance for both substantive and procedural issues. The latter code refers to dismissals based on operational requirements as 'no fault' dismissals, and states that special care must thus be exercised in trying to avoid employees losing their job.

Legal Framework Indicator 11. Termination of employment

Law, policy or institutions: The Basic Conditions of Employment Act covers ordinary termination of employment and severance pay. The Labour Relations Act includes provisions in relation to the process of retrenchment. The Labour Relations Act also defines what is meant by an unfair dismissal and makes provision for unfair labour practices, including in respect of dismissals for operational requirements. The Act also includes a Code of Good Practice on Dismissal and a further Code of Good Practice on Dismissal based on operational requirements. Both the LRA and BCEA exclude the members of the National Defence Force, the National Intelligence Agency and the South African Secret Service from the scope of their application. Provisions on termination of employment of the BCEA do not apply to employees who work less than 24 hours in a month for an employer.

Substantive requirements for dismissals: Fair dismissal occurs in cases where the worker is not meeting the needs of the job (capacity) or where their conduct is unacceptable. A dismissal is unfair if it happens as a result of the worker exercising a right, including the right to strike; if the worker is pregnant or planning pregnancy; if it involves discrimination on a range of grounds; if the worker refuses to accept a demand with good reason; or if the employer cannot prove misconduct or inability or that operational needs require the dismissal.

Procedure for individual dismissals: The Labour Relations Act requires that dismissals must be for a fair reason and be effected by a fair procedure. Schedule 8 of the Act provides a Code of Good Practice: Dismissal – that sets out dismissal procedures. The Basic Conditions of Employment Act states that notice must be given in writing except when the worker is illiterate. The Act specifies a notice period of four weeks for those employed for a year or longer, two weeks for those employed for more than six months but less than a year, and one week for those employed for six months or less. The Act also allows for pay in lieu of notice. Workers in employer-provided accommodation must be allowed to stay in the accommodation for at least a month if the contract is terminated prematurely.

Collective dismissals for economic reasons: An employer who is considering retrenchment must consult in writing with the people mentioned in the collective agreement, the workplace forum, the registered trade union/s, or workers or their representatives. In addition, for large-scale retrenchments, facilitation is required prior to retrenchment. The parties must agree on ways of minimizing retrenchment, the timing of the retrenchments, and reducing the impact; the choice of workers who will be retrenched; and severance pay. The Act specifies the minimum information that the employer must provide to the other party/ies.

Severance pay: The Basic Conditions of Employment Act specifies that retrenched workers are entitled to at least one week's pay for every year of service.

Evidence of implementation effectiveness: No information provided by the ILO supervisory bodies.

Coverage of workers in law: 11.6 million workers (all employees).

Coverage of workers in practice: Not applicable.

Ratification of ILO Conventions: South Africa has not ratified the Termination of Employment Convention, 1982 (No. 158).

Sources:

National legislation; NATLEX database

(http://www.ilo.org/dyn/natlex/country_profiles.basic?p_lang=en&p_country=ZAF);

EPlex database

(http://www.ilo.org/dyn/eplex/termmain.showCountry?p_lang=en&p_country_id=135).

Workers who feel that they have been dismissed or otherwise treated unfairly can refer their dispute to a statutory or bargaining council or to the Commission for Conciliation, Mediation and Arbitration (CCMA).

During the 2011/12 financial year, the number of cases referred to the Commission each working day averaged 649, three more than the average of the previous year, and 32 more than the 2009/10 average of 617. As discussed further below (see discussion of Table 29), unfair dismissals account for the overwhelming majority of referrals to the CCMA.

The CCMA aims to save jobs through its oversight and facilitative role in the Training Layoff Scheme. This scheme was initiated by Government in September 2009 in an attempt to lessen the impact of the economic crisis. The scheme had its origins in the National Economic

Development and Labour Council's Framework Document of February that year. The framework represented a joint initiative by government, organized business and organized labour to counter the effects of the global economic recession. A sum of R6.4 billion was allocated to implement the initiative, of which R2.4 billion was for training allowances and R4 billion for training costs.

The scheme provides for temporary suspension of work of a worker or group of workers who earn up to R180, 000 per year (US\$ 20,496 in 2009). During the time that they are part of the scheme, the contract of employment continues, the workers receive training as well as up to three-quarters of their usual earnings (up to a maximum of R9, 538) as a training allowance and their social benefits are maintained. The scheme is funded jointly by the National Skills Fund, Unemployment Insurance Fund and sector education and training authorities. The scheme is overseen by a Project Evaluation Committee, on which the National Skills Fund, Department of Higher Education and Training, Unemployment Insurance Fund and Department of Labour are represented, with the CCMA being present by invitation.

The Training Layoff Scheme started slowly, among other reasons, as a result of its complexity. By August 2010, just over 6,000 workers had benefited from the scheme, of whom over half were from the motor industry and about a quarter from the clothing, textiles and leather sectors (Ensor, 2010). The fact that the stipend was originally set at 50 per cent of the usual wage also made it difficult for workers to survive on the reduced earnings. Both the percentage of the wage paid as a stipend and the maximum cut-off for the stipend were therefore raised (Daphne and Everett, 2011).

By the end of March 2012, the CCMA had considered the cases of 160 companies which between them employed 18,330 workers. Of those companies, 83 had associated trade unions representing 11,489 workers. These numbers include cases withdrawn by companies or for which the CCMA did not recommend assistance. According to this same data, 6,811 workers affected by 28 different cases had completed training. For a further 20 cases, involving 2,071 workers, training was still in progress. Meanwhile, 32 of the cases, involving 2,435 workers, were under consideration by the relevant skills authority. In 34 cases, involving 2,281 workers, the case was withdrawn. In at least some of these cases the reason for withdrawal was that the situation of the company had improved. In another 39 cases, involving 3,910 workers, the CCMA advisory committee advised that assistance should not be provided through the training layoff scheme. In many of these cases the committee did not consider that the company was in distress. In the final three cases, involving 250 workers, the companies were liquidated (CCMA, 2012, p. 55).

Concern about the lack of security of work is one of the reasons why there is opposition to labour broking (or "temporary employment services", as it is referred to in South African legislation, and "agency work" as it is referred to internationally) in South Africa. The issue is contentious, as some argue that outlawing of labour broking would further reduce opportunities for employment, while others argue that the type of employment offered through labour broking too often does not represent decent work and that the practice encourages poor conditions of work.

The Employment Services Bill endeavours to represent Government's attempt towards addressing these concerns through the expansion of the provision of employment services by Government, as well as further regulation of and restrictions on the operations of private

South Africa Decent Work Country Profile

employment agencies. At the time of writing, the Bill has been approved by the National Council of Provinces.

8. Equal opportunity and treatment in employment

Post-apartheid South Africa has placed great emphasis on representativity in terms of race and gender. The Employment Equity Act is a key instrument for achieving this in respect of employees. The Act focuses on race and gender alongside disability. It provides one of at least two possible sources of statistics on equal opportunity as it requires that all employers with 150 or more employees submit a detailed report on an annual basis to the Department of Labour, while employers with between 50 and 140 employees report every two years.

Legal Framework Indicator 12. Equal opportunity and treatment

Law, policy or institutions: The Constitution and other subordinate legislation outlaws unfair discrimination on a wide range of factors. The Employment Equity Act focuses specifically on promoting equal opportunity among employees in respect of race, gender and disability. The Act provides for the establishment of an advisory Commission on Employment Equity, which is funded and serviced by the Department of Labour. The Act requires regular reports from all employers with more than 50 employees detailing their employment equity plans, achievements and challenges. Where individuals have complaints, these can be taken up with the Commission on Conciliation, Mediation and Arbitration, established in terms of the Labour Relations Act.

The Labour Relations Act also defines unfair labour practices, and the definition of an unfair labour practice includes dismissal of a worker on account of pregnancy, intended pregnancy; any reason related to her pregnancy is automatically unfair. The CEACR noted the National Skills Development Strategy which focuses on the training of black persons, women, people with disabilities and youth.

Evidence of implementation effectiveness: The CEACR noted from the Government's report that various cases of sexual harassment in the workplace were brought before tribunals, including cases addressing the employers' duty to take reasonable steps to prevent it.

The decision of the High Court of Pretoria of May 2008, declaring the HIV testing policy of the South African National Defence Force as an entrance requirement to be unfair discrimination in terms of article 9(3) of the Constitution, was noted. The CEACR also noted the decision of the Labour Court of Johannesburg of February 2011, on unfair dismissal and discrimination based on HIV status, which made specific reference to the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and to the HIV and AIDS Recommendation, 2010 (No. 200). The Committee asked the Government about measures adopted under the National Strategy Plan on HIV/AIDS (2007–2011) in order to prevent and address discrimination in employment and occupation based on HIV/AIDS status.

While noting that women are disproportionately found in the lowest paid and lowest ranking occupations, the CEACR pointed out that there are disproportionately more black women employed in unskilled occupations than white women. The Government indicated that this situation is the result of the persisting effects of apartheid which the Employment Equity Act aims to address.

The Government stated in its report that in 2009 the 'white group', which accounted for only 10 per cent of the population, represented 55 per cent of all recruitments and 52 per cent of all promotions at the upper occupational levels. The Government stated in its report that employers have difficulties in finding suitable qualified candidates and in providing reasonable accommodation for disabled workers.

The CEACR repeatedly pointed out that indigenous people are highly marginalized and concentrated at the lower end of the socio-economic scale. The Committee noted the decision by the Labour Court of Johannesburg of March 2008, highlighting that irregular migrant workers enjoy the right to fair labour practices laid down in article 23 of the Constitution, and the protections enshrined in the Labour Relations Act.

Coverage of workers in law: 11.6 million (all employees).

Ratification of ILO Conventions: South Africa ratified the Equal Remuneration Convention, 1951 (No. 100) on 3 March 2000; and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) on 5 March 1997.

Sources:

National legislation; NATLEX database

(http://www.ilo.org/dyn/natlex/country_profiles.basic?p_lang=en&p_country=ZAF); CEACR, direct request concerning Convention No. 111, 2009 (http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:2309311,102888,South%20Africa,2009).

CEACR, direct request concerning Convention No. 111, 2011

(http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:2699412,102888,South%20Africa,2011)

CEACR, observation concerning Convention No. 111, 2011

(http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:2699411,102888,South%20Africa,2011)

The most recent analysis available at the time of writing relates to the 2012 submissions, which covered both large and smaller employers. Analysable reports were submitted by a total of 22,012 employers, of which 21.9 per cent had 150 or more employees. The combined workforces of the large and small companies totalled 6,153,334, of which 5,299,134 (86.1 per cent) were employed by the large companies. The number of employers submitting reports is itself a measure of the success of the implementation of the Act, as in 2002 only 6,990 employers submitted reports that could be analysed (Commission for Employment Equity, 2013).

Table 18 gives the population group and gender profile for top and senior management, as well as the percentage of the full workforce that is accounted for by people with disabilities in each of the years in which both large and small companies reported. The various occupational levels (rather than standard statistical occupational categories) are defined on the basis of the most common job evaluation schemes in use in the country. The identified levels, in descending order, are top management; senior management; professionally qualified and experienced specialists and middle management; skilled technical and academically qualified workers, junior management, supervisors, foremen, and superintendents; semi-skilled and discretionary decision-making; and, unskilled and defined decision-making.

The reported trends must be interpreted with caution given that in earlier years the number of companies reporting was less (because of lower compliance levels) and thus less representative of all companies that should have reported. Nevertheless, the on-going gender and race imbalances in the workforce profile are clear in that by 2012, Africans accounted for only 12.3 per cent of top management and 18.4 per cent of senior management, while white employees accounted for 72.6 and 62.4 per cent respectively. While there has been improvement over time, the rate of change has been slow.

Women's share of top management has increased over time, but the pattern has been erratic, while women's share of senior management appears to have declined dramatically. The share of people with disabilities in the companies' workforces has also increased over time, but is still lower than desired.

Table 18. Race, gender and disability in employment equity reports 2002–2012

	2002	2004	2006	2008	2010	2012
Top management	100	100	100	100	100	100
African	10.0	11.8	11.3	13.6	12.7	12.3
Coloured	3.4	3.7	4.7	4.7	4.6	4.6
Indian	5.0	5.6	6.2	5.9	6.8	7.3
White	81.5	78.9	74.9	72.8	73.1	72.6
Foreign national	0.0	0.0	2.9	3.1	2.9	3.1
Senior management	100	100	100	100	100	100
African	10.8	13.1	13.4	17.3	12.7	18.4
Coloured	5.1	5.4	5.8	6.9	4.6	7.1
Indian	6.3	7.2	7.7	8.3	6.8	9.5
White	77.9	74.4	70.9	65.2	73.1	62.4
Foreign national	0.0	0.0	2.0	2.5	2.9	2.5
Female % of total						
Top management	13.7	15.1	21.6	18.2	19.0	19.8
Senior management	21.6	23.7	27.4	28.3	19.0	10.7
Disabled % of total	1.0	0.6	0.7	0.7	0.8	1.4

Source: Commission for Employment Equity

Statistics South Africa's Labour Force and Quarterly Labour Force Survey data tell a somewhat different story. The differences are, in part, due to the different definitions used for occupational levels and categories, and in part to the fact that the Employment Equity returns do not cover the full economy. Statistics South Africa data suggest that women's share of employment in the high-status occupations of legislators, senior officials, directors and chief executives remained more or less constant at around 32 per cent throughout the period 2006 to 2012. This percentage is markedly lower than women's share of wage employment, which was around 45 per cent throughout the same period.

In 2012, the female percentage share of high-status occupations was very similar for agriculture and industry, but noticeably higher for services. The latter pattern can be explained by the dominance of government employment in the services category, and the strong efforts that have been made to promote employment equity in respect of black people and women in the public sector. The extreme volatility of the indicator for agriculture suggests that the data are unreliable for this broad sector. This results in similar lack of reliability for the rural indicator.

The gender wage (or earnings) gap measures the extent to which earnings of women differ from those of men. A value of 0 would indicate that the earnings are equal (at least on average), while positive values reflect the percentage by which women's earnings are less than those of men (expressed as a percentage of men's earnings). In 2012, the (median) earnings gap stood at 28.6 per cent for wages, salaries and earnings from non-agricultural self-employment combined. Disaggregation reveals a smaller, but still noticeable, gap of 25.7 per cent if the calculation is restricted to employees, but a very large – 52.4 per cent – shortfall for the self-employed. The gap was larger in rural than urban areas.

Women's share of employment differs substantially across occupational groups. The share is highest among domestic workers, where women were recorded as accounting for 95 per cent

or more of workers in all years except 2007. In 2012, women's share was lowest for craft and related work, and the share in this occupational group seems to have decreased during the period 2006 to 2012. The share is also very low among plant and machine operators and assemblers. Apart from domestic work, women clearly dominate among clerks, and are in the majority among technicians and associate professionals. This last pattern would be partly explained by the inclusion of large numbers of nurses and teachers in this category. The sudden decrease in the trend with respect to skilled agricultural and fishery workers suggests a change in classification in 2008, as well as the exclusion of non-market employment with the introduction of the Quarterly Labour Force Survey.

The uneven distribution of women and men across occupations can also be seen if one compares the distribution in the various broad occupational groupings. For example, while 14.4 per cent of women were in domestic work and 16.8 per cent were in clerical occupations in 2012, the comparable percentages for men were 0.4 per cent and 5.6 per cent respectively. Conversely, while 19.1 per cent of men were in craft and related work and 12.8 per cent were plant and machine operators and assemblers, the percentages were 3.0 per cent and 2.5 per cent respectively for women.

The impact on male-female earnings differentials of these different occupations is exacerbated by the fact that within each occupational grouping, except domestic work (where median earnings are the same for women and men and where many of the relatively few men work as gardeners), median earnings are higher for women than for men employees (Statistics South Africa, 2010b, p.12).

Table 19. Equal opportunity and treatment in employment – Occupational segregation by gender

Decent Work Indicator	2006		2007		2008		2009		2010		2011		2012	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F
Occupational segregation by gender (distribution of employment within ISCO-88 major groups), in %														
Total employment	100	100	100	100	100	100	100	100	100	100	100	100	100	100
1 Legislators, administrators and managers	8.4	4.7	8.9	5.2	9.4	5.2	9.6	5.3	10.0	5.5	10.4	6.1	9.9	5.8
2 Professionals	3.3	3.9	3.7	4.8	5.2	5.9	5.1	5.6	5.4	5.8	5.4	6.0	5.9	5.8
3 Technicians and associate professionals	8.8	12.9	8.6	13.3	8.6	13.5	9.5	14.0	8.9	14.1	8.7	14.1	9.0	14.3
4 Clerks	5.8	15.3	5.7	16.0	5.9	16.8	5.8	17.4	6.1	17.6	5.7	17.0	5.6	16.8
5 Service workers and shop sales workers	12.8	13.9	12.8	13.3	12.0	14.0	12.6	15.0	13.9	14.8	14.5	14.8	14.1	15.6
6 Skilled agricultural and fishery workers	0.8	1.4	0.7	0.9	1.0	0.5	0.9	0.3	0.9	0.4	0.6	0.3	0.6	0.4
7 Craft and related workers	22.6	5.5	22.0	5.7	21.2	4.7	20.0	3.8	19.1	3.3	19.1	3.3	19.1	3.0
8 Plant and machine operators and	12.7	2.8	13.2	3.1	13.1	2.9	13.4	2.9	13.0	2.8	12.7	2.9	12.8	2.5

South Africa Decent Work Country Profile

	assemblers														
9	Elementary occupations	24.5	22.7	23.4	21.8	23.1	21.2	22.7	20.4	22.3	20.7	22.2	20.8	22.7	21.3
10	Domestic workers	0.2	16.9	1.0	15.9	0.5	15.3	0.4	15.3	0.5	14.9	0.5	14.6	0.4	14.4

Table 20. Equal opportunity and treatment in employment – Gender differences

Decent Work Indicator	2006	2007	2008	2009	2010	2011	2012
Female share of employment in high-status occupations (ISCO-88 groups 11 and 12), in %							
Female share of employment, total	32.2	32.8	31.5	33.6	31.9	33.7	35.2
Agriculture	25.7	8.5	30.0	35.7	11.0	24.3	23.5
Industry	30.3	32.2	29.3	31.9	29.1	21.1	23.9
Services	41.1	38.1	42.1	40.2	42.4	37.5	38.5
Urban areas	..	..	31.3	33.8	32.9	34.1	35.2
Rural areas	..	..	35.0	31.1	18.2	27.1	35.0
Gender wage gap (Total monthly earnings from paid employment and non-agricultural self-employment), in %							
Gender wage gap, total	..	..	..	28.6	30.0	28.2	28.6
Monthly wages/earnings from paid employment	..	..	..	23.3	23.1	27.9	25.7
Monthly wages/earnings from non-agricultural self-employment	..	..	..	62.1	52.0	53.8	52.4
Urban areas	..	..	..	25.7	25.0	25.0	27.7
Rural areas	..	..	..	35.4	30.0	34.0	30.0
Share of women in wage employment in the non-agricultural sector, in %							
Share of women in wage employment, total	..	..	43.9	45.0	44.5	44.9	45.4
Urban areas	..	..	43.4	44.7	44.2	44.4	44.9
Rural areas	..	..	45.7	46.1	46.0	47.3	47.8
Female share of employment by major occupational groups, in %							
Female share of employment/occupations, total	44.2	44.1	43.3	43.8	43.4	43.6	43.6
Legislators, administrators and managers	30.9	31.7	29.7	30.2	29.7	31.0	31.3
Professionals	48.1	50.4	46.2	46.2	45.4	46.2	43.5
Technicians and associate professionals	53.7	55.0	54.6	53.5	55.0	55.7	55.1
Clerks	67.7	69.0	68.4	70.1	68.8	69.5	70.0
Service workers and shop sales workers	46.4	45.2	47.2	48.1	45.0	44.1	46.2
Skilled agricultural and fishery workers	57.7	49.6	26.6	22.7	27.8	29.4	33.1
Craft and related workers	16.2	16.9	14.6	12.8	11.6	11.8	10.7
Plant and machine operators and assemblers	14.8	15.7	14.2	14.5	14.0	15.1	13.2
Elementary occupations	42.3	42.4	41.2	41.2	41.6	42.0	42.1
Domestic workers	98.7	92.8	96.0	96.5	96.1	96.0	96.1

Legal Framework Indicator 13. Equal remuneration of men and women for work of equal value

Law, policy or institutions: There is currently no law or policy that explicitly provides for equal remuneration for work of equal value. However, the Employment Equity Act implicitly provides for this, and the amendments under consideration provide for it explicitly.

The Employment Equity Act provides for the Employment Conditions Commission (established under the Basic Conditions of Employment Act) to advise the Minister on employment differentials, and the employer submissions under the Act include a form that requires employers to indicate earnings for different groups.

The Act does not currently refer explicitly to the requirement of equal remuneration for work of equal value. However, a new section 6(4) of the Employment Equity Amendment Bill provides explicitly for equal remuneration for work of equal value for employees working for the same employer.

The Government indicated that collective agreements do not include specific provisions promoting the principle of equal remuneration for men and women for work of equal value. The CEACR pointed out that section 12.3 of the Code of Good Practice on the Integration of Employment Equity into Human Resources Policies and Practices spells out that remuneration should be based on the value of the post.

Evidence of implementation effectiveness: Welcoming the Government's intention to include the principle of equal remuneration for work of equal value in the Employment Equity Act, the CEACR expressed the hope that the term "pay" will be defined broadly so as to include all elements of remuneration as defined in Article 1(a) of the Equal Remuneration Convention (No. 100), ratified by South Africa. The Government stated that Section 8 of the Promotion of Equality and Prevention of Unfair Discrimination Act (the Equality Act), which prohibits unfair discrimination on the ground of gender, also covers the principle of equal remuneration for men and women for work of equal value.

The CEACR welcomed the Government's intention to include in future amendments to the EEA, the possibility for small employers to report on matters such as barriers to employment equity in respect of remuneration and benefits.

While noting that the Commission on Conciliation, Mediation and Arbitration has addressed seven cases, the CEACR noted the absence of cases dealing with the principle of equal remuneration for work of equal value. The issue is, however, explicitly considered in the Labour Court case *Mangena & Others vs Fila South Africa (Pty) Ltd and Others*.¹² The Government indicated to the CEACR that its current inspection system does not allow the collecting of information directly related to the Convention.

Coverage of workers in law: Not applicable.

Ratification of ILO Conventions: South Africa ratified the Equal Remuneration Convention, 1951 (No. 100) on 3 March 2000; and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) on 5 March 1997.

Sources:

National legislation; NATLEX database

(http://www.ilo.org/dyn/natlex/country_profiles.basic?p_lang=en&p_country=ZAF); CEACR, direct request concerning Convention No. 100, 2009

(http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:2320122,102888,South%20Africa,2009);

CEACR, direct request concerning Convention No. 100, 2011

(http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:2699091,102888,South%20Africa,2011);

CEACR, observation concerning Convention No. 100, 2011

(http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:2699090,102888,South%20Africa,2011)

While the concept of equal opportunity and treatment in the workplace might suggest that the aim is to have male and female workers treated in the same way, in reality, to achieve substantive equality (or equity) one needs to recognize that the situations of women and men

¹² Case No JS 343/05

are different and sometimes require different treatment. Legislation and policies thus need to go beyond ensuring equal representation of women and men at different levels and equal pay.

The need for this is recognized implicitly in the concept of equal pay for work of equal value. This approach is important because women often occupy different jobs from those occupied by men. The distinction between formal and substantive equality is also recognized more explicitly in provisions for maternity leave. The need to address particular situations facing different groups of workers is also recognized in instruments that address gender-based violence and its impact on the workforce. Although such instruments may not explicitly differentiate between women and men, they are especially helpful to women given that they are most commonly the target of such violence.

The ultimate aim of the Code of Good Practice on Handling Sexual Harassment Cases is the elimination of sexual harassment in the workplace. It provides guidance to employers on the development and implementation of policies and procedures that will create a workplace free of sexual harassment.

9. Safe work environment

Compensation for injuries and work-related diseases is provided for by the Compensation for Occupational Injuries and Diseases Act. Administration of the Act is the responsibility of the Compensation Fund, which falls under the Department of Labour and is funded primarily through levies paid by employers. The levies vary according to the level of risk associated with the workplace concerned. Domestic workers are not covered by the Act.

Under the Act, compensation is available in cases of injury, disablement and death. Medical payments are covered, as are the related transport costs. The amount paid for disability depends on the seriousness of the disability, but never reaches the full rate of pay received before the disability was incurred.

Legal Framework Indicator 14. Employment injury benefits

Law, policy or institutions: The Compensation for Occupational Injuries and Diseases Act provides for compensation for workers who are injured at work or contract a work-related disease. Where death occurs, the compensation is paid to dependants. The Act applies to all employees except domestic workers and those in the employ of the South African National Defence Force or Police Service.

Qualifying conditions: Compensation is not provided for total or partial disablement of less than three days' duration. It is also not available for a worker whose wilful misconduct caused the injury or illness unless the worker is seriously disabled or killed.

Benefits (level and duration): Compensation takes the form of medical payments, and compensation in respect of temporary or permanent disablement or death. Transport costs are covered, as are the full (reasonable) cost of medical fees for a period of up to two years.

The amount paid for disability varies according to the seriousness of the disability. A lump sum is paid when permanent disablement is 30 per cent or less, with the amount reflecting the degree of disablement. A pension, which again is related to the degree of disablement, is paid when the disablement is 31 per cent or more. The amount paid may be increased if the injury or disease was due to the negligence of the employer or another employee.

On death, a lump sum is payable to the widowed spouse and a pension is payable to the widowed spouse and children. The pension is equal to 40 per cent of the pension that the worker would have received for 100 per cent permanent disablement.

Financing: Benefits are financed through risk-rated levies paid by employers.

Evidence of implementation effectiveness: No information provided by the ILO supervisory bodies.

Coverage of workers in law: 11.6 million employees.

Coverage of workers in practice: In 2012/13 slightly fewer than 480,000 new claims were registered (National Treasury, 2013b, p. 421).

Ratification of ILO Conventions: South Africa has ratified neither the Social Security (Minimum Standards) Convention, 1952 (No. 102) nor the Employment Injury Benefits Convention, 1964 (No. 121).

Source:

National legislation; NATLEX database

(http://www.ilo.org/dyn/natlex/country_profiles.basic?p_lang=en&p_country=ZAF).

Beyond compensation, within Government the responsibility for health and safety at work is divided across two national departments, namely Labour and Mineral Resources. The latter is responsible for mine health and safety, an extremely important area given the extreme depth, and accompanying danger, of many South African mines when compared to those elsewhere. In addition, mine workers are vulnerable to industry-specific diseases, such as silicosis. The Department of Labour bears responsibility for health and safety in other parts of the economy.

As seen in Table 21, the reported number of labour inspectors within the Department of Labour stood at 930 for 2012, substantially more than the 755 reported for 2009. The figure of 930 for 2012 gives a rate of 0.8 inspectors for every 10,000 paid employees and 0.7 inspectors for every 10,000 employed persons if one uses estimates of employees and employed people from the Quarterly Labour Force Survey of the first quarter of 2012. These indicators are an undercount of coverage as they exclude the inspectors employed by and inspections conducted by the Department of Mineral Resources. As at 1 November 2012, there were 1,088 labour inspector posts in the Department of Labour, of which 62 were vacant and 340 team leader posts of which 19 were vacant (Mogwatlhe, 2013).

Table 21. Number of Department of Labour inspectors as at end March 2012

Province	Total
Eastern Cape	101
Free State	75
Gauteng Province	201
Kwazulu-Natal	202
Limpopo	90
Mpumalanga	74
Northern Cape	36
Northwest	56
Western Cape	95
Total	930

Source: Mogwatlhe, 2013

Table 22 shows that the number of inspections conducted was slightly lower in 2012/13 than it was in 2006/07, despite the increase in the number of inspectors over recent years. Of the 130,200 workplace inspections conducted in 2012/13, 51,760 (40 per cent) related to ensuring compliance with health and safety legislation in high-risk sectors, 78,000 (50 per cent) to ensuring compliance with other labour legislation, and 240 (less than 1 per cent) were in respect of employment equity legislation. The number of inspections in 2012/13 was lower than the 147,556 conducted in 2009/10 but the department plans to increase the number of inspectors and reach a target of 180,060 inspections by 2015/16 (National Treasury, 2013, p. 410). The 172,300 inspections conducted in 2011/12 give a rate of 150.2 inspections for every 10,000 employees and 127.2 inspections for every 10,000 employed persons if the number of employees and employed persons is estimated from the Quarterly Labour Force Survey of the first quarter of 2012.

Table 22. Number of inspections, 2006/07–2011/12

Year	Inspections
2006/07	180 767
2007/08	200 665
2008/09	153 697
2009/10	147 556
2010/11	157 312
2011/12	172 300
2012/13	130 200

Source: Department of Labour Annual Reports; National Treasury, 2013, p. 410.

Table 23. Safe work environment: Reported occupational injuries and labour inspectors

Decent Work Indicator	2006	2007	2008	2009	2010	2011	2012
Reported occupational injuries	226 689	223 586	216 252	195 923	195 905	93 946	

South Africa Decent Work Country Profile

Fatal	1 236	1 164	1 043	945	867	374
Non-fatal	225 453	222 422	215 209	194 978	195 038	93 572
Number of labour inspectors¹³						
per 10 000 paid employees				0.7		0.8
per 10 000 employed persons				0.6		0.7
Number of labour inspections						
per 10 000 paid employees				133.4		150.2
per 10 000 employed persons				112.4		127.2

Source: Department of Labour

The number of occupational injuries reported to the Department of Labour fell gradually throughout the period 2006/07 to 2010/11, followed by a decrease of more than 50 per cent in 2011/12. The same pattern is found for both fatal and non-fatal injuries. The pattern is almost certainly attributable to the introduction of a new claims-processing system rather than a real substantial decrease in the number of injuries. Currently, the statistics on occupational injuries are not available disaggregated by sector, as required in the international decent work indicator set.

Registered bargaining councils can appoint inspectors who have powers and duties similar to those of the Department of Labour's inspectors for establishments falling within the scope of the council. Unfortunately, statistics on inspections conducted by bargaining council agents are not readily available.

In addition to the Department's inspectors, the Occupational Health and Safety Act provides for workplace health and safety representatives, as well as health and safety committees. Employers are obliged to appoint health and safety representatives when they employ 20 or more workers. Shops and offices are required to have one such representative for every 100 employees, while other workplaces must have one representative for every 50 employees. The representatives are tasked with monitoring, investigating and reporting on health and safety matters. They must accompany labour inspectors when they carry out their inspections of the workplace. The representatives must receive training for these tasks during working hours.

The number of occupational health and safety inspections and mine audits conducted by the Department of Mineral Resources dropped from 12,700 in 2008/09 to 7,164 in 2009/10. However, the number subsequently increased to reach 8,396 – 8,000 inspections and 396 audits – in 2012/13 (National Treasury, 2012, p. 717; 2013, p. 762). The Mine, Health and Safety (Regions) budget sub-programme is responsible for inspections, audits, monitoring and enforcing compliance with the Mine Health and Safety Act. In 2012/13 the sub-programme had an allocation of R100.3 million and a staff complement of 192. Of the 313 funded posts and six unfunded posts within the Promotion of Mine Safety and Health budget programme in 2012/13, 56 were vacant as a result of difficulties in attracting staff with the necessary skills.

Table 24 shows a sharp fall in the rate of fatalities per million hours worked across the formal mining sector between 2008 and 2012. The injury rate per million hours worked has also fallen throughout the period 2006 to 2012, although less sharply than the fatality rate. Not shown in the table, gold mining records higher rates of both fatalities and injuries than all the other mining commodities throughout the period 2010 to 2012.

¹³ This and the following indicator reflect only the inspectors of and inspections by the Department of Labour.

Table 24. Number and rate of fatalities and injuries on mines

Year	Fatalities	Fatalities/ million hours worked	Injuries	Injuries/ million hours worked
2006	200	0.20	4 169	4.14
2007	220	0.21	3 867	3.62
2008	171	0.21	3 763	3.34
2009	168	0.16	3 650	3.43
2010	127	0.12	3 438	3.25
2011	123	0.11	3 299	3.00
2012	112	0.10	3 377	3.03

Source: Chamber of Mines; Department of Mineral Resources

Legal Framework Indicator 15. OSH labour inspection

Law, policy or institutions: The Occupational Health and Safety Act governs health and safety at work. It covers all workplaces except mines and ships. It provides for the appointment of inspectors and defines their functions and powers. The inspectors are employed by the Department of Labour. The Act also provides for workplace-based health and safety representatives and committees. The Mine Health and Safety Act provides for a separate inspectorate, for which it defines the powers and functions. The Mine Health and Safety Act falls under the Department of Mineral Resources.

Evidence of implementation effectiveness: No information provided by the ILO supervisory bodies.

Coverage of workers in law: 10.8 million (employees excluding mining industry) for Occupational Health and Safety Act, and just over 300,000 for Mine Health and Safety Act.

Coverage of workers in practice: Not applicable.

Ratification of ILO Conventions: South Africa ratified the Occupational Safety and Health Convention, 1981 (No. 155) on 18 February 2003; and the Labour Inspection Convention, 1947 (No. 81) on 20 June 2013. South Africa has ratified neither the Labour Inspection (Agriculture) Convention, 1969 (No. 129), nor the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187).

Source:

National legislation; NATLEX database

(http://www.ilo.org/dyn/natlex/country_profiles.basic?p_lang=en&p_country=ZAF).

A health and safety-related issue of particular importance in current-day South Africa is HIV and AIDS. The Code of Good Practice on Key Aspects of HIV and Employment was issued in terms of the Employment Equity Act. The goals of the Code include elimination of unfair discrimination in the workplace on the basis of HIV status, promotion of a non-discriminatory workplace in which people living with HIV or AIDS are able to be open about their HIV status without fear of stigma or rejection, and promotion of appropriate and effective ways of managing HIV in the workplace. The primary focus of the Code is thus not on health and safety. However, it includes measures to create a safe working environment for all employees, as well as measures to restrict the spread of HIV. An amended Code and related technical assistance guidelines that bring the policy in line with ILO Recommendation 200 were formally adopted in 2012.

The South African Business Coalition on HIV and AIDS (SABCOHA) has been in existence for over ten years and started its first projects in 2004, with particular emphasis on small, medium and micro-enterprises (SMMEs). In 2011, SABCOHA BizAIDS provided basic training to more than 25,000 small business owners, trained more than 550 small and medium-sized businesses through its SME HIV and AIDS Capacity Development programmes, distributed more than 45 million condoms through public-private partnerships, and facilitated skills building workshops for more than 1,000 workplace-based peer educators (SABCOHA, 2012).

10. Social security

For decades South Africa has had a non-contributory old-age grant that is currently payable to women and men aged 60 years and above who pass a means test. This grant is one of a set of grants that provide social protection to old people, disabled people, children and war veterans. The grant currently accounts for a larger total amount in rand than each of the other grants, with R44.3 billion allocated for this grant alone in 2013/14 (National Treasury, 2013b, p. 439). However, the smaller (in monetary terms) child support grant reaches a larger number of beneficiaries.

In March 2012, 2.7 million individuals were receiving the old-age grant (National Treasury, 2013b, p. 433). In 2012, old-age grant recipients accounted for an estimated 47.3 per cent of people aged 55 years and above according to General Household Survey data. The percentage was much higher for women than men, at 53.3 per cent against 38.7 per cent. This gender difference is explained by women's greater longevity, higher rates of poverty among women, and the fact that previously the eligible age cut-off for men stood at 65 years.

South Africa does not have a national law that provides for work-related pension benefits. Nevertheless, such benefits are available to many employees. In some cases, the benefits are provided in terms of collective bargaining agreements, including bargaining council agreements. In other cases, the employer contributes to a pension fund in terms of a private agreement with the employee. In yet other cases, the employer may deduct contributions from the wage or salary for a pension fund but may not contribute as the employer.

Legal Framework Indicator 16. Pension (public/private)

Law, policy or institutions: There is no national law providing for work-related pension benefits. However, some of the bargaining councils and statutory councils established in terms of the Labour Relations Act have established pension and provident funds. The Social Assistance Act provides for a non-contributory old-age grant which is available to persons aged 60 years and above who pass a means test. The grant is administered by the South African Social Security Agency, which reports to and is funded by the Department of Social Development.

Qualifying conditions: 60 years is the qualifying age for the old-age grant. There is a means test based on the income and assets of the individual, and of the individual's spouse if married.

Benefits (level): Payments are made on a monthly basis. The maximum amount of the grant was increased to R1, 260 as from April 2013. The amount is, in theory, reduced based on the level of the person's income and assets, but the majority of pensioners receive the full amount.

Financing: There are no contributions. The grant is financed through general tax revenue of government.

Evidence of implementation effectiveness: No information provided by the ILO supervisory bodies.

Coverage of workers in law: Not applicable.

Coverage of workers in practice: Estimated 2.7 million beneficiaries of the old-age grant as at March 2012.

Ratification of ILO Conventions: South Africa has ratified neither the Social Security (Minimum Standards) Convention, 1952 (No. 102), Part V, nor the Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128).

Source:

National legislation; NATLEX database

(http://www.ilo.org/dyn/natlex/country_profiles.basic?p_lang=en&p_country=ZAF).

The Labour Force and Quarterly Labour Force Surveys record a decrease in the percentage of the economically active population whose employers contributed to a pension scheme, from around 50 per cent in 2006 to around 46 per cent in 2010. The share then increases again to

around 49 per cent in 2012. Throughout the period, the share was higher for men than for women, with the rate at 52 per cent for men in 2012 as compared to 45 per cent for women. The urban-rural gap was much larger than the gender gap, at 53 per cent, compared to 32 per cent. This is expected, given the much lower employment rate in rural areas.

The above estimates would include a substantial number of workers who fall under bargaining council agreements, as many of the bargaining councils provide for pension funds. A study completed in 2010 found that 29 of the 40 private bargaining councils between them had 43 retirement funds (Jacques Malan Consultants and Actuaries, 2010, p. 9). The reason that some councils have more than one fund is to some extent due to a historical legacy, where in previous years lower-paid predominantly black workers had a provident fund while higher-paid white workers had a pension fund.

Table 25. Social security

Decent Work Indicator	2006	2007	2008	2009	2010	2011	2012
Share of population aged 55 years and above benefiting from a pension, in %							
Direct government pensions	46.4	44.3	44.9	48.0	46.8	47.6	47.3
Male	35.6	31.7	33.0	40.6	39.2	38.7	38.7
Female	54.6	53.9	53.9	53.7	52.6	53.7	53.3
Old-age pensions from contributory social security schemes							
		
Share of economically active population contributing to a pension scheme, in %							
	50.0	50.3	45.2	46.1	45.8	47.5	48.7
Male	53.1	52.7	47.6	48.8	48.0	50.0	51.6
Female	46.0	47.1	42.1	42.8	43.0	44.3	45.1
Urban areas	..	..	49.6	50.6	50.0	51.6	53.1
Rural areas	..	..	28.8	29.6	29.4	31.6	31.7
Total public and private social security expenditure, in % of GDP							
Public health-care expenditure, in % of GDP	3.1	3.2	3.4	3.8	3.8	3.9	4.1
Public social protection expenditure, in % of GDP	4.3	4.2	4.4	5.0	4.8	4.8	4.8
Private social security expenditure, all, in % of GDP							

Source: National Treasury, 2013a, pp. 162, 164; National Treasury, 2010a, pp. 176, 55.

During the period 2006 to 2012, public health-care expenditure increased from 3.1 per cent of gross domestic product (GDP) to 4.1 per cent. In 2009, total public sector health expenditure was estimated at R132, 228 million (National Treasury, 2013, pp. 162-4). This estimate included health-related spending by the national and provincial Departments of Health and selected public entities, Defence, Correctional Services, alongside spending by police, local government from own revenue, the Compensation Fund and the Road Accident Fund. Public social protection expenditure accounted for a slightly larger percentage of GDP than public health-care expenditure over the period, increasing to 4.8 per cent of GDP in 2012.

The Basic Conditions of Employment Act provides for sick leave on full pay for a period equivalent to six work weeks over a 36-month period. The employer is responsible for payment during sick leave and there are no contributions from the employee.

The study of bargaining council funds found that 14 councils still had sick pay funds (Jacques Malan Consultants and Actuaries, 2010, p. 17). These are a legacy from a period in which national legislation did not provide for paid sick leave.

The sick pay and leave provisions provide only for the payment of ordinary wages. The provisions do not cover payment of medical expenses. The Quarterly Labour Force Survey of the fourth quarter of 2012 recorded 32 per cent of employees as being entitled to medical aid (health insurance) benefits from their employers, with 33 per cent of men and 31 per cent of women employees reporting this benefit.

Among private bargaining councils, 15 councils had a medical or sick benefit fund of some kind. While some of these assisted with payment of medical fees, others provided free or cheap consultation with panel doctors or through fund-operated clinics (Jacques Malan Consultants and Actuaries, 2010, p. 17).

The situation in respect of payment of medical expenses as well as contributions is likely to change radically as the planned National Health Insurance is introduced.¹⁴

Legal Framework Indicator 17. Incapacity for work due to sickness / sick leave

Law, policy or institutions: The Basic Conditions of Employment Act provides for sick leave to be paid by the employer. The Unemployment Insurance Fund provides partial payment of wages for qualifying workers who are unable to work because of illness lasting 14 or more days.

Qualifying conditions: Under the Basic Conditions of Employment Act, the employer can ask for a medical certificate where the worker is absent for more than two consecutive days or is absent more than twice in an eight-week period. For the Unemployment Insurance Fund, employees must not have exhausted their benefits and must be receiving less than their normal pay while ill.

Benefits (level and duration): Under the Basic Conditions of Employment Act, employees are entitled to sick pay on full pay for the number of days they would normally work in a six-week period over a 36-month period. During the first six months of employment, employees are entitled to one day of paid sick leave for every 26 days worked. For the Unemployment Insurance Fund, payments are calculated on the same basis as for other Fund benefits.

Financing: There are no employee contributions for the Basic Conditions of Employment Act payments. The employer pays the sick leave. For the Unemployment Insurance Fund, the benefits are covered by the standard Fund contributions.

Evidence of implementation effectiveness: No information provided by the ILO supervisory bodies.

Coverage of workers in law: 11.6 million (all employees).

Ratification of ILO Conventions: South Africa has ratified neither the Social Security (Minimum Standards) Convention, 1952 (No. 102), Part III, nor the Medical Care and Sickness Benefits Convention, 1969 (No. 130).

Sources:

National legislation; NATLEX database

(http://www.ilo.org/dyn/natlex/country_profiles.basic?p_lang=en&p_country=ZAF); National Treasury, 2011, p. 404.

The Social Assistance Act provides for non-occupational disability through the non-contributory disability grant for those aged 18 to 59 years, alongside a care dependency grant for the caregivers of severely disabled children. The amount of the grant is the same as the old-age grant.

Two types of disability grant are available — permanent and temporary. The number of beneficiaries of the grant increased dramatically in the early years of this century. This occurred at a time when the procedures for assessing disability were shifting from a purely medical conceptualization of disability. Analysis of the beneficiary data revealed that the profile of grant beneficiaries changed during this time in favour of younger people and

¹⁴ Not expected in the short-term.

women (Moultrie et al, 2006). The trends suggested strongly that HIV and AIDS were strong contributors to the increase in demand for the grant.

Legal Framework Indicator 18. Incapacity for work due to invalidity

Law, policy or institutions: The Social Assistance Act provides for temporary and permanent non-contributory disability grants.

Qualifying conditions: The grant is available to persons aged 18 to 59 who are medically assessed as unable to work and pass a means test. Permanent grants are available to those assessed as being permanently unable to work.

Benefits (level): In April 2012 the grant amount was increased to R1, 260 per month. In theory, beneficiaries receiving permanent grants should be re-assessed periodically. In practice, the grant continues until the person's 60th birthday when they are transferred to an old-age grant.

Financing: There are no contributions. The grant is financed from general tax revenue.

Evidence of implementation effectiveness: No information provided by the ILO supervisory bodies.

Coverage of workers in law: Unknown.

Coverage of workers in practice: Estimated 1.2 million beneficiaries as at March 2012 (National Treasury, 2013b, p. 433).

Ratification of ILO Conventions: South Africa has ratified neither the Social Security (Minimum Standards) Convention, 1952 (No. 102), (Part IX), nor the Old-Age and Survivors' Benefits Convention, 1967 (No. 128).

Sources:

National legislation; NATLEX database

(http://www.ilo.org/dyn/natlex/country_profiles.basic?p_lang=en&p_country=ZAF); National Treasury, 2011, p. 404.

11. Social dialogue, employers' and workers' representation

Freedom of association related to employment was considered important enough in South Africa to be included in the Bill of Rights in the Constitution. Employees are guaranteed the right to form and join a trade union and participate in its activities and programmes, as well as the right to use the important trade union 'weapon' of strike. Employers are accorded the right to form and join an employers' organization and to participate in its activities and programmes.

Legal Framework Indicator 19. Freedom of association and the right to organize

Law, policy or institutions: The Bill of Rights in the Constitution affords every worker the right to form and join a trade union, participate in union activities and programmes, and strike. The Bill of Rights gives every employer the right to form and join an employers' organization and to participate in its activities and programmes. The Labour Relations Act elaborates on these rights.

Chapter VI of the Labour Relations Act provides for the registration of trade unions and employers' organizations. To be registered, trade unions must have an address and a name. Trade unions must be independent, that is, they must not be under the direct control or subject to interference from any employers' organization. Furthermore, they must have a constitution. The registrar must register the trade union if it meets these requirements or grant the union 30 days to fulfil the requirements. Discrimination based on trade union membership is prohibited.

Evidence of implementation effectiveness: There are no active cases before the CEACR on freedom of association. The CEACR noted the comments by the International Trade Union Confederation in communications dated 4 August 2011 and 31 July 2012, reporting acts of violence leading to injuries and death, and arrests of striking workers, as well as the dismissal of strikers. The CEACR also noted the communication by the International Trade Union Confederation of 2010, reporting acts of violence and arrests of workers, including trade union leaders, during the course of demonstrations and strikes in various sectors, as well as the dismissal of strikers, in 2009.

The Committee recalled that in 2008 the Confederation had sent comments on serious infringement of trade union rights including attempts to obstruct unionization in the agricultural and communication sectors, police repression during a general strike and, in the mine sector, intimidation and mass dismissals following strikes. The Committee also noted from the ITUC's communication about the difficulties faced by casual workers in respect of joining a trade union.

Coverage of workers and employers in law: 11.6 million employees.

Coverage of workers and employers in practice: Quarterly Labour Force Survey 2012 4th quarter records more than 3.4 million trade union members.

Ratification of ILO Conventions: South Africa ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) on 19 February 1996.

Sources:

National legislation; NATLEX database

(http://www.ilo.org/dyn/natlex/country_profiles.basic?p_lang=en&p_country=ZAF); CEACR, observation concerning Convention No. 87, 2010

(http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:2332259);

CEACR, observation concerning Convention No. 87, 2012

(http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3077989)

Committee on Freedom of Association Cases

(<http://www.ilo.org/dyn/normlex/en/f?p=1000:20060:0::NO:20060::>).

The Labour Relations Act (LRA) provides for the registration of trade unions and employer organizations, as well as federations of these two types of organization, with the Department of Labour. There are several benefits to registering. In particular, registered unions are guaranteed organizational rights if they can prove that they are 'representative', and collective agreements between registered trade unions and registered employers' organizations are binding on members. The relatively simple requirements for registration resulted in a large number of unions and employers' organizations registering after the promulgation of the Act.

As at August 2013, there were 190 trade unions and 164 employers' organizations registered with the Department of Labour.

The LRA does not explicitly afford the right to collective bargaining but probably effectively accords enough related rights to satisfy the ILO definition and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), (see Legal Framework Indicator 19, above). The Act does not oblige employers to bargain. As Todd explains, the Act instead encourages “process voluntarism” — no duty to bargain — (Todd, 2004, p. 42), but does not prescribe what issues can be covered by collective bargaining. However, Todd notes that wages have tended to dominate the bargaining agenda, while other “important non-distributive matters” tend to get neglected. The Act also does not prescribe at what level bargaining should occur. However, only registered unions and registered employers' organizations can establish bargaining councils.

Bargaining councils, which replaced the industrial councils of the apartheid era, bring together employers or employers' organizations and unions within a particular sector. While for most sectors it is up to the employers and unions concerned to establish a bargaining council, the Act itself established the Public Service Co-ordinating Bargaining Council (PSCBC), and further allowed for the establishment of separate councils for sectors within the public service. The PSCBC covers national and provincial government, but not municipal government as municipal employees are not considered to be public servants. While the Act does not explicitly provide for a separate bargaining council for local government, such a council has been established.

The trade union and employer parties do not need to represent the majority of workers or employers within the sector to establish a bargaining council. However, if the parties who sign the agreement represent the majority of all employees in the sector, the Act allows for extension of their agreements to non-members. In August 2013, there were 41 bargaining councils in the private sector alongside the South African Local Government Bargaining Council and the Public Sector Central Bargaining Council and its sub-councils.

When engaging in collective bargaining, employers and labour can agree to adapt, replace or exclude clauses of the Basic Conditions of Employment Act, as long as the agreement remains consistent with the purpose of the Act. However, there are several clauses that may not be varied downwards. These include those relating to working time and hours of work, night work, maternity leave, and sick leave. Annual leave may not be reduced to less than two weeks. In many cases, the variations in the collective bargaining agreements set higher levels of protection than those provided for in the Basic Conditions of Employment Act.

Legal Framework Indicator 20. Collective bargaining right

Law, policy or institutions: The Bill of Rights in the Constitution gives every trade union, employers' organization and employer the right to engage in collective bargaining. The Labour Relations Act elaborates on that right. The Act does not oblige employers to bargain and does not prescribe at what level bargaining should occur. However, only registered unions and registered employers' organizations can establish bargaining councils.

Bargaining councils bring together employers or employers' organizations and unions within a particular sector. The parties do not need to represent the majority of workers or employers within the sector to establish a bargaining council. The LRA allows for extension of agreements to non-members if the union/s who sign the agreement represent a majority of all employees in the workplace. The LRA does not prescribe what issues can be covered by collective bargaining. Bargaining councils are responsible for enforcement of their own collective agreements, and can request the Minister to designate agents who fulfil this responsibility. Where this is done, the agents are accorded substantial powers.

While, for most sectors it is up to the employers and unions concerned to establish a bargaining council, the Act itself established the Public Service Co-ordinating Bargaining Council (PSCBC), and further allowed for the establishment of separate councils for sectors within the public service.

Strikes and lock-outs are permitted if the dispute could not be resolved otherwise or if 30 days have passed after the referral of the dispute to the council or commission. Notice of the strike must be given 48 hours in advance. Strikes are prohibited if it is contrary to a collective agreement; the dispute has been referred to arbitration or the labour court; or the worker is engaged in essential services or maintenance services.

Evidence of implementation effectiveness: According to the Quarterly Labour Force Survey of 2012 about 6 per cent of workers in the agricultural sector are unionized. The CEACR welcomed the information that a study on identifying obstacles faced by trade unions organizing on farms has been commissioned by the Government, and that another study on facilitating unionization of farm workers has been conducted by the ILO.

Coverage of workers in law: 11.6 million employees.

Coverage of workers in practice:

Ratification of ILO Conventions: South Africa ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) on 19 February 1996.

Sources:

National legislation; NATLEX database

(http://www.ilo.org/dyn/natlex/country_profiles.basic?p_lang=en&p_country=ZAF); CEACR, direct request concerning Convention No. 98, 2010

(http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:2332271,102888,South%20Africa,2010).

CEACR, direct request concerning Convention No. 98, 2012

(http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:3080628,102888,South%20Africa,2012)

The National Economic Development and Labour Council Act of 1994 provides for the establishment of a forum which brings together government, employer and labour representatives and – to a lesser extent – community representatives to discuss economic and development policy which extends beyond a particular sector or workplace. NEDLAC is thus South Africa's foremost social dialogue forum for the traditional social partners. Indeed, it is within NEDLAC that the Decent Work programme for South Africa was agreed, and it is also within this body that amendments to labour laws are discussed.

NEDLAC, in turn, is linked to a “family” of institutions which provide for social dialogue and which include members nominated by the social partners. These include the Commission for Conciliation Mediation and Arbitration (CCMA), Proudly South African, the International Trade Administration Commission, the Competition Commission, the Commission on

Employment Equity, and the Employment Conditions Commission (Webster & Sikwebu, 2006, p. 11).

Legal Framework Indicator 21. Tripartite consultations

Law policy or institutions: The National Economic Development and Labour Council Act established the National Economic Development and Labour Council (NEDLAC). The Council brings together government, employer and labour representatives and – to a lesser extent – community representatives to discuss economic and development policy which extends beyond a particular sector or workplace. The Act requires that when a cabinet minister wants to introduce new policy or a new law related to employment, the law or bill must be discussed and debated in NEDLAC before coming to Parliament if it relates in any way to labour. Labour is represented on NEDLAC by the Federation of Unions of South Africa, National Council of Trade Unions, and Congress of South African Trade Unions. Business is represented by Business Unity South Africa and, since September 2012, by the Black Business Council. The Department of Labour leads the government delegation.

Evidence of implementation effectiveness: The CEACR noted with interest the information supplied on the procedures of the tripartite consultative process on matters covered by Convention No. 144. Any constituency of NEDLAC may at any time submit a matter under Article 5, paragraph 1, of the Convention for discussion in the appropriate chamber or at the over-arching management committee which is made up of representatives of the employers’, workers’ and community organizations.

Ratification of ILO Conventions: South Africa ratified the Tripartite Consultation (International Labour Standards) Convention 1976 (No. 144) on 18 February 2003.

Sources:

National legislation; NATLEX database

(http://www.ilo.org/dyn/natlex/country_profiles.basic?p_lang=en&p_country=ZAF); CEACR, direct request concerning Convention No. 144, 2008.

(http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:2295639,102888,South%20Africa,2008).

The Quarterly Labour Force Survey of 2012 recorded a total of about 3.4 million union members, of whom 1.4 million (40 per cent) were female and 2.8 million (83 per cent) were urban. Trade union density, i.e., membership calculated as a percentage of all employees appears to have remained more or less constant throughout the period 2006 to 2012 for both women and men workers, as well as the two combined. Female membership nevertheless remained lower than male membership, at 26.7 per cent for female employees compared to 31.8 per cent for male employees in 2012. This gender gap would be smaller, or even disappear, if the approximately one million domestic workers were excluded from the calculation, as male membership is very low in this heavily female-dominated sector.

Unfortunately, there are no reliable statistics available in relation to the density of membership of employers’ organizations. There are statistics for 2010 through 2012 on coverage by collective bargaining, although it is possible that some survey respondents have not understood this question. For 2012, the reported overall coverage of employees by collective bargaining was 32.5 per cent for all employees: 34.6 per cent for males and 29.9 per cent for females. The urban-rural difference in this respect was more than seven percentage points, mirroring the difference in union density.

Table 26. Trade union and employer organization membership

Decent Work Indicator	2006	2007	2008	2009	2010	2011	2012
Trade union members, total	3 106	3 347	,..	,..	3 311	3 252	3 380
Male	1 887	2 026	,..	,..	1 966	1 938	2 012
Female	1 219	1 321	,..	,..	1 345	1 314	1 368
Urban areas	,..	,..	,..	,..	2 784	2 697	2 804
Rural areas	..	..	..	..	527	555	576

South Africa Decent Work Country Profile

Trade union density rate, in % of employees	28.9	30.3	..	..	30.0	29.0	29.5
Male	31.0	32.4	..	..	31.8	31.1	31.8
Female	26.2	27.6	..	..	27.7	26.4	26.7
Urban areas	..	..	..	..	31.8	30.2	30.8
Rural areas	..	..	..	..	23.1	24.2	24.2
Trade union density rate, in % of employees	28.9	30.3	..	..	30.0	29.0	29.5
Agriculture	8.3	10.1	..	..	6.3	5.7	6.1
Mining	72.2	73.8	..	..	74.8	74.8	77.0
Manufacturing	35.4	35.8	..	..	34.7	34.4	33.3
Utilities	42.8	43.4	..	..	50.7	48.4	55.5
Construction	10.4	9.4	..	..	11.7	10.6	11.1
Trade	20.9	22.0	..	..	18.1	17.4	17.1
Transport	32.2	31.2	..	..	32.4	30.8	32.4
Finance	26.3	27.3	..	..	21.6	20.3	19.9
Community and social services	54.4	56.4	..	..	57.8	55.8	56.1
Private household	1.7	2.1	..	..	0.2	0.6	0.5
Collective bargaining coverage rate	..	..	..	..	32.7	31.6	32.5
Male	..	..	..	..	34.5	33.3	34.6
Female	..	..	..	..	30.3	29.4	29.9
Urban areas	..	..	..	..	34.8	32.9	34.0
Rural areas	..	..	..	..	24.3	26.6	26.9

As noted above, the Bill of Rights affords the right to strike. The number of strikes declined steadily during the period 2006 to 2009, from 99 to 51 respectively, but then increased to 74 in 2010, 67 in 2011 and a much higher figure of 99 in 2012. The number of work days stood at 3,309,884 (for 241,391 employees) in 2012, as compared to 2,806,656 (for 203,138 employees) in 2011. The highest point in number of days lost was in 2010, when 20,674,737 working days were lost (Department of Labour, 2009, p. 28; Department of Labour, 2012, p. 1). The increase in days lost for 2012 is at least partly explained by strike days lost in Marikana and in Western Cape agriculture. Nevertheless, in 2012, 26.5 per cent of strikes lasted five days or less, compared to 13.7 per cent with the same duration in 2011 (Department of Labour, 2013a, p.19).

Table 27 shows the number of working days lost through reported strikes in 2011 and 2012 by the nature of the main dispute causing the strike. In both years, the overwhelming majority of strikes were caused by disputes over wages, bonuses or other forms of compensation.

Table 27. Working days lost by principle cause of strike, 2011 and 2012

Principle cause	2011	%	2012	%
Wages, bonus, compensation	2 687 785	95.8	2 699 411	81.6
Working conditions	4 719	0.2	74 684	2.3
Disciplinary matters	0	0.0	0	0.0
Grievances	20 258	0.7	33 794	1.0
Socio-economic & political	3 011	0.1	71 314	2.2
Secondary action	612	0.0	2 082	0.1
Retrenchments/redundancy	618	0.0	0	0.0
Refusal to bargain	4 740	0.2	13 979	0.4
Trade union recognition	3 048	0.1	1 603	0.0
Compensation & other factors	56 178	2.0	30 364	0.9
Other reasons	25 687	0.9	382 653	11.6
Total	2 806 656	100	3 309 884	100

Source: Department of Labour, 2013a, p. 20

Table 28 provides a breakdown by sector of the number of employees on strike, hours lost, and days lost per 1,000 workers in 2011 and 2012. The mining, manufacturing and community services sectors record high numbers for each of these indicators for both years. (The community services sector includes most government employees.) Transport and mining record much higher numbers for 2012 than for 2011, while the opposite pattern is found for manufacturing and community services.

Table 28. Number of striking employees, hours lost, and days lost per 1,000 workers by sector, 2011 and 2012

Sector	Employees		Hours lost		Days lost per 1000 workers	
	2011	2012	2011	2012	2011	2012
Agriculture	2 608	11 078	1 181 347	1 106 550	25.5	180.1
Mining	47 732	138 993	28 428 115	19 789 694	1 132.9	7 642.4
Manufacturing	66 042	56 324	8 685 338	1 391 357	461.8	109.1
Electricity	70	1 078	280	10 634	0.8	15.1
Construction	2 734	2 793	167 246	88 495	26.5	9.5
Wholesale/retail trade	3 466	4 170	2 194 513	115 032	16.4	4.5
Transport	5 594	12 900	405 814	1 135 992	30.8	165.6
Finance	424	160	7 584	7 687	0.6	0.5
Community	74 468	13 877	11 500 499	890 441	503.5	35.7
Total	203 138	241 373	52 570 736	24 535 882¹⁵		

Source: Department of Labour, 2013a, pp. 14-16

Table 29 shows key performance indicators for the CCMA, namely statistics on the number of cases referred in each of the main categories, turnaround time for conciliation and arbitration cases, and the settlement rate for collective bargaining (mutual interest) referrals. In terms of categories, unfair dismissals dominate across all years, accounting for more than 80 per cent of cases falling within the CCMA's jurisdiction. Cases involving victimization and discrimination are included in the unfair labour practice category. This category's share of referrals has increased slightly over the period but remains under 10 per cent. Turnaround times for both conciliation and arbitration have dropped markedly over the period 2006/07 to 2011/12. The settlement rate for collective bargaining cases has fluctuated from year to year, but overall has shown an increasing trend.

Table 29. Key CCMA performance indicators

	2006/07	2007/08	2008/09	2009/10	2010/11	2011/12
Referrals by main issue categories						
Collective bargaining	3 335	3 214	3 461	3 408	3 371	3 807
Mutual interest	3 615	3 981	4 091	4 794	5 222	5 341
Non jurisdiction	18 657	12 839	4 668	4 715	7 291	5 701
Unfair dismissals	85 033	99 207	110 988	121 317	117 711	123 458
Unfair labour practices	7 311	8 409	9 620	10 785	11 182	12 394
Turnaround time (days)						
Conciliation	31.3	28.0	27.4	28.6	26.7	23.7
Arbitration	143.5	131.7	126.1	126.8	96.8	70.0
Settlement rate: mutual interest	55	56	59	54	57	61

¹⁵ The totals for 2012 in the Department's report do not equal the column sums and have therefore been corrected in this table.

South Africa Decent Work Country Profile

Source: Benjamin, 2012, pp. 13, 20.

12. Proposal for monitoring indicators

This South African Decent Work Profile departs from the standard international template by including proposals for indicators through which the country's Decent Work Country Programme can be monitored. Ideally, definition of such monitoring indicators should be done at the time the Programme is developed. Such indicators can assist in promoting social dialogue between government officials, employers, workers and — in the South African case — community representatives. It can assist in ensuring that the dialogue is based on evidence.

This chapter puts forward proposals for possible on-going monitoring indicators for South Africa's Decent Work Programme. The proposals take several factors into account, namely:

- the outputs and outcomes of South Africa's Decent Work Country Programme 2011–14 as reflected in the revised document of 18 March 2010, and in particular the priorities agreed by the social partners for the 2014–2015 biennium;
- the indicators presented in the preceding text, which are based primarily on the international recommended indicators; and
- the specific needs in respect of South Africa's labour market (as reflected, among others, by the priorities agreed for the Country Programme).

In considering the interplay between the first two factors, the recommendations focus on those indicators that are most relevant for the outputs of the Programme and for which data are either already available or could, conceivably, be made available without major effort, expense or lapse of time. The focus is equally on indicators for which timely data are available on an on-going basis, as out-of-date data are of little use for monitoring.

A further important consideration is the amount of energy and other resources that should be spent on monitoring. While one can always think of additional indicators, these are meant to serve as warning signals of where things are going wrong, prompting further investigation — rather than attempting to measure everything. If the list is kept short, it can be seen as sending the message that implementation is the most important aspect where the bulk of financial and human resources and energy should be focused.

The agreed priorities for South Africa's Decent Work Country Programme for 2014–2015 are:

- More and better jobs
- Employment equity
- Social protection floor
- Social dialogue and collective bargaining
- Compliance and enforcement
- Informal economy (including atypical forms of work).

The proposed monitoring indicators are therefore as follow:

OUTCOME 2: Labour administrations apply up-to-date labour legislation and provide effective services

- Number of unfilled labour inspector posts
- Number of labour inspectors per 10,000 paid employees

- Number of labour inspectors per 10,000 employed people
- Number of labour inspections per 10,000 paid employees
- Number of labour inspections per 10,000 employed people

The indicators relating to inspectors might need to be disaggregated into those employed by the Department of Labour and those employed by the Department of Mineral Resources, and the same would apply to the inspection indicators.

The inspection indicators should be further disaggregated into those relating to employment equity, those relating to accidents and injuries, and those relating to other legislation.

OUTCOME 3: More women and men, especially youth and persons with disabilities, have access to productive and decent employment through inclusive job-rich growth

- Employment-to-population ratio, disaggregated by sex, race and broad age group (youth 15–24, 25–34, and 35–64): MDG indicator 1.5
- Unemployment rate, disaggregated by sex, race and broad age group
- Expanded unemployment rate, disaggregated by sex, race and broad age group
- Youth not in education and not in employment, disaggregated by sex, race and broad age group
- Informal employment, disaggregated by sex, race and broad age group
- Proportion of own-account and contributing family workers in total employment, disaggregated by sex and urban/rural: MDG indicator 1.7
- Median real earnings of employees by sex and race
- Minimum hourly wages in sectoral determinations by determination
- Rate of work with decent hours by sex and race
- Occupational segregation among employees by sex, race and age group
- Share of women in wage employment in the non-agricultural sector, by race and urban/rural: MDG indicator 3.2
- Gender monthly wage/earnings gap disaggregated by employment status

The above could be supplemented by indicators from Employment Equity reports. This would serve to capture disability, which is not captured adequately in other data sources. However, the Employment Equity data are not enough on their own as they have a smaller coverage than the Quarterly Labour Force Surveys.

OUTCOME 4: Sustainable and competitive enterprises (including cooperatives) create productive and decent jobs especially among women, youth and persons with disabilities¹⁶

- Employment by status in employment, disaggregated by sex, race and broad age group
- Median real earnings of employees by sex and race
- Median real earnings of self-employed by sex and race
- Number of enterprises registered and deregistered by the Companies and Intellectual Property Commission

OUTCOME 6: More people have access to better managed and more gender equitable social security and health benefits

¹⁶ South Africa does not yet have agreed definitions for indicators for the working poor (MDG indicator 1.6) and labour productivity (MDG indicator 1.4). Once agreed these will be included under Outcome 4.

- Share of employees whose employers contribute to a medical scheme by sex and race
- Share of employees whose employers contribute to a retirement scheme by sex and race

The above are not included in the standard international indicators but can be generated from the Quarterly Labour Force Survey data.

OUTCOME 9: Strengthened labour market institutions and capacitated social partners (tripartite-plus) contribute to effective social dialogue and sound industrial relations

- Trade union density rate disaggregated by race, sex and industry
- Collective bargaining coverage of workers disaggregated by race, sex and industry.
- Number of bills discussed by NEDLAC by degree of consensus reached

13 The way forward

This Decent Work Country Profile is intended as a reference document for the social partners and others who are interested in South Africa's progress in achieving decent work. The ILO Geneva office has advanced plans for the launching of a portal that provides country-by-country access to all relevant documents. This Profile will be a core document for the portal.

The exercise of developing this first Decent Work Country Profile for South Africa has identified the available sources for the various indicators which should mean that updating the profile in future years should be a less arduous task.

The indicators proposed in the previous chapter represent an attempt to come up with a manageable number of indicators that can be fairly readily available and that focus on the outputs prioritized for the 2014–2015 biennium in South Africa's Decent Work Country Programme.

However, in the process of developing this Decent Work Country Profile, there were also suggestions from social partners for additional indicators, over and above those presented above in this document. Such indicators are currently not readily available and the social partners will need to consider their feasibility and relative importance in respect of the next Decent Work Country Profile.

The indicators suggested by the social partners include, among others, disaggregation of maternity leave benefit payments; workers paid on a piece rate or commission basis; UIF turnaround times; collective bargaining agreements providing explicitly for paternity leave; number of workers in seasonal work per sector; compensation claims per annum; percentage of workplaces with health and safety committees; time off for different types of leave and public holidays; occupational disaggregation by sex per sector; length of service per sector and type of work; and, percentage of small and medium-sized enterprises covered by bargaining councils.

Moreover, there are some international and other indicators agreed by social partners that relate to data that are not available or are of questionable quality. Alternatively, the information might be available, but not in the desired detail or not at regular intervals. The most important weaknesses in terms of insufficient data relate to productivity, injuries, labour inspections, company registration and deregistration, skills development, as well as casual, seasonal and temporary workers. These areas would need attention if South Africa's social partners, and the public more generally, are to monitor the country's progress in achieving the goals of the Decent Work Agenda.

References

- Benjamin, P. 2010. "Different Routes to Equality and Empowerment" in O. Dupper and C. Garbers (eds.): *Equality in the Workplace: Reflections from South Africa and Beyond* (Cape Town, Juta), pp. 97-120.
- . 2013. *Assessing South Africa's Commission for Conciliation, Mediation and Arbitration (CCMA)*, Dialogue Working Paper No 47, Governance and Tripartism Department (Geneva, ILO).
- Berkowitz, P. 2012. "Unpacking your inflation basket" in *Personal Finance*, first quarter 2012.
- Bhorat, H.; Goga, S.; Tseng, D. 2012. *Unemployment Insurance in South Africa: A descriptive overview of claimants and claims*, Development Policy Research Unit (Cape Town, University of Cape Town).
- Budlender, D. 2007. *Child labour and other work-related activities in South Africa* (Pretoria Department of Labour, Statistics South Africa and ILO).
- . 2010a. "What do Time Use Studies tell us about unpaid care work?" in D. Budlender (ed): *Time use studies and unpaid care work* (New York, Routledge).
- . 2010b. *Promoting gender equality through social dialogue in South Africa* (Geneva, ILO).
- . 2011. *Child labour and other work-related activities in South Africa* (Pretoria, Department of Labour, Statistics South Africa and ILO).
- . 2013. *Improving the quality of available statistics on foreign labour in South Africa: Existing data-sets*, MiWORC Report (Johannesburg, African Centre for Migration & Society, University of Witwatersrand).
- Budlender, D.; Chobokoane, N.; Mpetsheni, Y. 2001. *A survey of time use: How South African women and men spend their time* (Pretoria, Statistics South Africa).
- Casale, D.; Posel, D. 2009. "Unions and the gender wage gap in South Africa", ERSA Working Paper no 113 (Cape Town, Economic Research Southern Africa).
- Commission for Conciliation, Mediation and Arbitration. 2010. *Annual Report 2009/2010* (Pretoria).
- . 2012. *Annual Report 2011/12* (Pretoria).
- Commission for Employment Equity. 2013. *Annual Report 2012-2013* (Pretoria).
- Daphne, J.; Everett, W. June/July 2011. "Tackling business distress and job loss: Training layoff scheme", in *South African Labour Bulletin* 35(2), pp. 7-9.

Department of Health. 2011. *The 2011 National Antenatal Sentinel HIV & Syphilis Prevalence Survey in South Africa*. (Pretoria), p. 21.

Department of Higher Education and Training. 2013. *National Skills Development Strategy III: Progress Report 2011-2013* (Pretoria).

Department of Labour. 2009. *Annual Industrial Action Report 2009* (Pretoria).

—. 2010. *10th Commission for Employment Equity Annual Report: 2009-2010* (Pretoria).

—. 2011. *Child labour and other work-related activities in South Africa. Study of Activities of Young People, 2010* (Pretoria, Statistics South Africa).

—. 2013a. *Annual Industrial Action Report 2012* (Pretoria).

—. 2013b. *State of the Labour Market in South Africa*, Annual evaluation and planning workshop, Kopanong, 11-12 July 2013 (Pretoria).

Ensor, L. 2010. "Layoff training scheme 'too late' and 'too complex' for workers", in *Business Day*, 7 January 2010.

Godfrey, S; Maree, J.; Theron, J. 2006. *Conditions of employment and small business: Coverage, compliance and exemptions*, Development Policy Research Unit Working Paper 06/106 (Cape Town, Labour and Enterprise Project, Sociology Department, Institute of Development and Labour Law, University of Cape Town).

Hertz, T. 2005. *The effect of minimum wages on the employment and earnings of South Africa's domestic service workers*, Development Policy Research Unit Working Paper No. 05/99 (Cape Town, University of Cape Town).

Human Sciences Research Council, Development Policy Research Unit and Sociology of Work Programme. March 2008. *2007 National Skills Survey*, Commissioned by Department of Labour (Pretoria,).

Jacques Malan Consultants and Actuaries. 2010. *Retirement funds provided by bargaining councils in South Africa* (Pretoria, Department of Labour).

Leibbrandt, M.; Woolard, I.; Finn, A.; Argent, J. 2010. *Trends in South African income distribution and poverty since the fall of apartheid*, OECD Social Employment and Migration Working Paper No 101 (Paris, OECD).

Mogwatlhe, M.E. 2013. *Inspection System in SA: Report & Review of on-going work*. Presentation to NEDLAC meeting 6 February 2013 (Pretoria, Department of Labour).

Moultrie, T.; Budlender, D.; Delaney, A. 2006. *Trends in disability and care dependency grants in South Africa, 2001-2004* (Johannesburg, Community Agency for Social Enquiry).

National Planning Commission. 2011. *National Development Plan: Vision 2030* (Pretoria).

National Treasury. 2010. *Budget Review 2010* (Pretoria).

— . 2011a. *Budget Review 2011* (Pretoria).

— . 2011b. *2011 Estimates of National Expenditure* (Pretoria).

— . 2013a. *Budget Review 2013* (Pretoria).

— . 2013b. *2013 Estimates of National Expenditure* (Pretoria).

Shepherd, D. 2008. *Post-apartheid trends in gender discrimination in South Africa: Analysis through decomposition techniques*, Stellenbosch Economic Working Paper No. 6 (Stellenbosch, University of Stellenbosch).

South African Business Coalition on HIV & AIDS. 2012. *Empowering Business in the Fight against HIV & AIDS: Flagship Report 2004 to 2012* (Johannesburg, SABCOHA).

South African Revenue Service. 2012. SARS-Stats-2012-04 – Tax Statistics Personal Income Tax. Downloaded www.sars.gov.za, 15 September 2013

Statistics South Africa. 2007. *Income and Expenditure of Households: Analysis of results* (Pretoria).

— . 2008a. *Personal services industry, 2008*, Report No. 90-01-01 (2008) (Pretoria).

— . 2008b. *Manufacturing industry: Financial, 2008*, Report No. 30-02-03 (2008) (Pretoria).

— . 2009a. *Motor trade industry, 2009*, Report No. 63-01-02 (2009) (Pretoria).

— . 2009b. *Mining industry, 2009*, Report No. 20-01-02 (2009) Pretoria.

— . 2009c. *Wholesale trade industry, 2009*, Report No. 61-01-01 (2009) (Pretoria).

— . 2009d. *Retail trade industry, 2009*, Report No. 62-01-01 (2009) (Pretoria).

— . 2009e. *Accommodation industry, 2009*, Report No. 64-01-01 (2009) (Pretoria).

— . 2010a. *Real estate, activities auxiliary to financial intermediation and business services industry, 2010*, Report No. 08-04-02 (2010) (Pretoria).

— . 2010b. *Monthly earnings of South Africans, 2010*, Statistical Release P021122010 (Pretoria).

— . 2010c. *Food and beverages industry, 2009*, Statistical release P6421 (Pretoria).

— . 2011a. *Construction industry, 2011*, Report No. 50-02-01 (2011) (Pretoria).

— . 2011b. *Quarterly Labour Force Survey: Quarter 2, 2011*, Statistical release P0211 (Pretoria).

— . 2011c. *Survey of Activities of Young People, 2010*; Statistical release P0212 (Pretoria).

— . 2012. *Poverty Profile of South Africa: Application of the poverty lines on the LCS 2008/2009*; Report No. 03-10-03 (2008/2009) (Pretoria).

— . 2013a. *Mid-year population estimates 2013*; Statistical release P0302 (Pretoria).

— . 2013b. *A Survey of Time Use, 2010* (Pretoria).

Todd, C. 2004. *Collective Bargaining Law* (Cape Town, SiberInk).

Tregenna, F. 2010. “How significant is intersectoral outsourcing of employment in South Africa?” in *Industrial and Corporate Change*, Vol. 19, No. 5, pp. 1427–1457.

Webster, E; Sikwebu, D. 2006. *Social Dialogue in South Africa: An external review of the National Economic Development and Labour Council (NEDLAC) 1995-2006* (Pretoria, ILO), unpublished document.

Annex I

List of South African legislation relating to Decent Work

Basic Conditions of Employment Act (No. 75 of 1997)

Children's Act (No. 38 of 2005)

Compensation for Occupational Injuries and Diseases Act (No. 130 of 1993)

Constitution of the Republic of South Africa (No. 108 of 1996)

Correctional Services Act (No. 111 of 1998)

Criminal Law (Sexual Offences and Related Matters) Amendment Act (No. 32 of 2007)

Employment Equity Act (No. 55 of 1998)

Labour Relations Act (No. 66 of 1995)

Occupational Health and Safety Act (No. 85 of 1993)

Prevention and Combating of Trafficking in Persons Act (No. 7 of 2013)

Public Service Act (No. 103 of 1994)

Public Service Labour Relations Act (No. 105 of 1994)

Social Assistance Act (No. 13 of 2004)

South African Schools Act (No. 84 of 1996)

Unemployment Insurance Act (No. 63 of 2001)

Unemployment Insurance Contributions Act (No. 4 of 2002)