

Migrant Domestic Workers

KNOW YOUR RIGHTS AND OBLIGATIONS



International
Labour
Organization

An information guide
for Zimbabwean
migrant domestic workers
in South Africa



2016 Free copy

CONTENTS

1. WHAT IS THE GUIDE ABOUT?
2. BEFORE LEAVING
3. YOUR BASIC HUMAN RIGHTS IN SOUTH AFRICA
4. YOUR RIGHTS AS A DOMESTIC WORKER IN SOUTH AFRICA
5. SENDING MONEY BACK HOME
6. RETURNING HOME

1. WHAT IS THE GUIDE ABOUT ?

This information guide is published by the organisations listed on the back cover.

Its objective is to provide up-to-date, reliable information to people from Zimbabwe who are planning to work as domestic workers in South Africa or are already employed as such in South Africa.

The guide provides information on:

- the things you should know before taking the decision to leave and when preparing to exit Zimbabwe;
- during your stay in South Africa;
- your rights and obligations as a human being;
- and as a domestic worker.

The guide also provides information about sending money back home and about returning safely to your Zimbabwe.

Each section provides a list of useful contact numbers and resources.



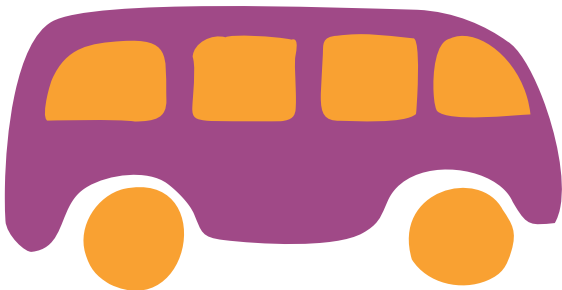
2. BEFORE LEAVING

Taking your decision:

- Only make your decision on the basis of verified information: do not trust anyone simply on their word; ask questions to different people.
- Compare the income you are currently earning and the minimum income you can reasonably hope for in South Africa.
- Try to work out all your costs including accommodation, transport to work, food & toiletries, etc to see whether you will be able to save anything.
- Who will look after your family (children, elderly, parents) while you are away? Will you be able to send them money?
- Will your children's education be monitored by someone reliable?
- During your trip to South Africa and while working there, will you be at risk: physically, legally, financially?
- Do you have a plan B (someone you can trust to assist) if things do not work out as planned?
- Will you be travelling safely to your destination?
- Do you have enough financial means to support yourself should you be without income for some time?
- Do you know your rights and how to claim them?
- You should also know about South African laws. It will be your obligation to obey and respect them.

Before exiting the country:

- Make sure you have a firm job offer preferably in writing and detailed indications of your conditions of work (wages, hours of work, accommodation, overtime, rest periods, etc).
- Make sure you have the appropriate immigration permit/visa that will allow you to stay and work legally in South Africa.
- Make certified copies of all your documents and leave them in a safe place at home.
- If possible, having a bank account in your name in Zimbabwe to keep your savings would be helpful.
- Plan your trip through safe means of transport.
- Beware of smugglers: Travelling illegally to South Africa exposes you to the dangers of human trafficking and exploitation.
- Take all your official documents (passport, work certificates, birth certificate, diplomas, etc) and useful telephone numbers with you.
- Inform a trusted friend or relative of your new contact details (telephone, employer's address) in South Africa.



Recommendations:

- If you have secured a job through an employment agency from South Africa, check with the South African Department of Labour whether this agency is legally registered in South Africa;
- If you are recruited through a Zimbabwe-based agency, check their credentials with the Zimbabwean Ministry of Public Service, Labour & Social Welfare;
- Employment agencies are NOT allowed to charge you any fee to offer you employment or to deduct any amounts from your salary during your employment;
- You can visit the Migration Reception and Information Centre at the Beit Bridge Border Post for information on conditions of employment in South Africa, health and HIV/AIDS.

South African immigration rules:

- Zimbabweans may travel to South Africa for 90 days at a time without requesting a visa prior to entering South African territory AND provided they have a valid passport;
- 90-day visas are only visitor's visas; they DO NOT give you the right to work in South Africa;
- In order to work legally in South Africa, you need a work visa before entering South Africa (see Home Affairs website). To apply for a work visa, you need to contact the South African Consulate in Harare or a branch of the South African Department of Home Affairs in South Africa.



Useful numbers:

- **South African Consulate in Harare:**
+263 4 749654 | 7 Elcombe Road, Belgravia, Harare
- **South African Department of Labour:**
+27 (0)86 0022 198 | www.labour.gov.za
- **South African Department of Home Affairs:**
+27 (0)8600 601 190 Toll Free Hotline
www.dha.gov.za/index.php/immigration-services
- **Zimbabwe Ministry of Public Service, Labour & Social Welfare:**
+263 7 03871 / 7 05151 | www.mpslsw.gov.zw
- **Zimbabwe Consulate in South Africa:**
+27 (0)11 615 5879 | www.zimbabweconsulate.co.za
zimjohannesburg@zimfa.gov.zw | admin@zimbabweconsulate.co.za
13 A Boeing Road, West Bedfordview, Johannesburg

3. YOUR BASIC HUMAN RIGHTS IN SOUTH AFRICA

Which Human Rights are guaranteed in South Africa?

In South Africa, the list of Human Rights is contained in the Bill of Rights, Chapter 2 of the South African Constitution, the highest law in the country.

These rights apply to all including:

- Non South Africans
- Domestic workers
- Non South African domestic workers
- Undocumented / Illegal migrant domestic workers
- When you have been arrested and are detained by the police

What can I do if my rights have been violated?

- Seek help and protection from someone I trust
- Seek redress from the police at your nearest police station
- Seek protection and assistance from human rights organisations
- Report and protect myself
- Join a trade union

Here are some basic rights you enjoy and must respect while in South Africa:

Life	You have the right to life.
Human Dignity	Your dignity must be respected and protected.
Slavery, Servitude and Forced Labour	Slavery, servitude and forced labour are not allowed.
Equality	You cannot be discriminated against.
Freedom and Security of the Person	You cannot be detained without trial, tortured or punished cruelly. Domestic violence is not allowed.
Privacy	You cannot be searched or have your home or possessions searched without the proper procedures being followed by the police.
Freedom of Religion, Belief and Opinion	You can believe and think whatever you want and can follow the religion of your choice or not follow any.
Political Rights	You can support the political party of your choice. You are free to join a trade union.
Movement	You can go and live anywhere in South Africa.
Just Administration Action	Actions by the government must be fair.
Right to Basic Health Care	Everyone has the right to basic health care from all public hospitals whether you are documented or not. Basic generally means if your life is endangered or if you are in need of health care related to a communicable disease.

Useful numbers:

- **National Emergency numbers:**
10111 from landline | 112 from cell phone
- **Medical emergency:** 10177
- **Public Protector (Rights violations):**
TOLL FREE LINE 0800 11 20 40
- **South African Human Rights Commission:** 011 877 3600
- **Consortium for Refugees and Migrants in South Africa:** 011 403 7560
- **Lawyers for Human Rights:**
Johannesburg 011 339 1960; Cape Town 021 424 8561;
Durban 031 301 0531; Musina 015 534 2203;
Pretoria 012 320 2943
- **Section 27:**
Johannesburg +27 (0)11 356 4100 | www.section27.org.za
- **PASSOP (People Against Suffering, Oppression and Poverty):**
+ 27 (0)76 671 4708 | www.passop.co.za
413-414, Tulbagh Centre, Hans Strijdom Avenue Lane, Cape Town City
Centre, Cape Town
- See numbers of Zimbabwe consulate in SA in previous section.

4. YOUR RIGHTS AS A DOMESTIC WORKER IN SOUTH AFRICA

Is domestic work protected and regulated in South African law?

In South Africa, domestic work is regulated by the **Basic Conditions of Employment Act** and the **Labour Relations Act**. In addition, specific aspects, such as minimum wage rates, are negotiated from time to time. This is **Sectoral Determination**.

The following indications are taken from these laws and regulations. They apply to all domestic workers working in private households, employment services, gardeners and drivers but NOT to domestic workers employed on farms. Sectoral Determination applies to South Africans and non-South Africans, legal and illegal, documented and undocumented workers alike.

The **Unemployment Insurance Fund (UIF)** contributions and entitlements only apply to documented (passport and work visa) migrant workers provided you are registered and even if you DO NOT have a South African 13-digit green bar-coded ID. UIF can give you access to benefits in periods of unemployment or maternity leave.

Minimum wages (for workers who work more than 27 hours / week):

Urban areas (as from 1st Dec. 2015): R 2230.70

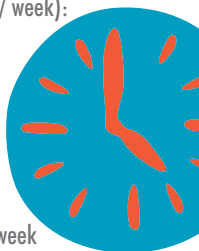
Rural areas (as from 1st Dec. 2015): R 1993.82

Working hours:

Normal hours (excluding overtime)

A domestic worker may not be made to:

- work more than 45 hours a week
- work more than nine hours per day for a five day work week
- work more than eight hours a day for a six day work week.



Overtime

- A domestic worker may not work more than 15 hours overtime per week but
- may not work more than 12 hours on any day, including overtime.
- Overtime must be paid at one and a half times the employee's normal wage or an employee may agree to receive paid time-off.

Rest periods

Domestic workers are also entitled to **daily and weekly rest periods**. Sunday, night work and stand-by can only be by prior consent and must be compensated at rates higher than normal wages (see details in Department of Labour Guide).

Leave:

Domestic workers are entitled to:

- no less than three weeks of **paid annual leave**;
- six weeks of **paid sick leave** per cycle of 36 months on presentation of medical certificate;
- five days of paid family responsibility leave.

Maternity leave:

Domestic workers are entitled to **at least four consecutive months' maternity leave**. The employer is not obliged to pay the domestic worker for the period for which she is off work due to her pregnancy. However the employer may pay the domestic worker part of her salary during maternity leave. The employer is NOT allowed to dismiss the domestic worker because she is pregnant.

No work under the age of 15:

The Sectoral Determination prohibits employment of any person under the age of 15.

Deductions from wages and live-in:

The Sectoral Determination prohibits an employer from deducting any monies from the worker's wages without his/her written permission. A deduction of not more than 10% of the wage may be deducted for a room provided it is kept in a good condition, has at least one window and a door, which can be locked, and he/she has access to a bathroom.

The South African **Compensation for Occupational Diseases Act (CODA)** gives access to benefits in case of injury at the workplace. It covers foreign domestic workers. In case of injury incurred at work, you may want to claim from the Compensation Fund.

Contract:

An employer must supply a domestic worker with written particulars of employment, containing the following:

- Full name and address of the employer
- Name and occupation of the domestic worker or a brief description of work
- Addresses of various places of work
- Date on which employment began
- Ordinary hours of work and days of work
- Wage or the rate and method of payment
- The rate of pay for overtime work
- Any other cash payments
- Any payment in kind and the value thereof
- How frequently wages will be paid
- Any deductions
- Leave entitlement
- The period of notice to terminate employment; or if employment was for a specific period, the date when employment is terminated.



Any provision, which sets conditions, which are less favourable than those set by the Determination, would be invalid.

Termination of employment:

In terms of the Sectoral Determination, any party to an employment contract must give written notice, except when an illiterate domestic worker gives it, as follows:

- One week, if employed for six months or less
- Four weeks if employed for more than six months.

The services of a domestic worker may not be terminated unless a valid and fair reason exists and fair procedure is followed.

Notice must be explained orally by or on behalf of the employer to a domestic worker if he/she is not able to understand it.

The employer is required to provide the domestic worker who resides in accommodation supplied by the employer, a period of one month until the contract of employment could lawfully have been terminated.

All monies due to the domestic worker for any wages, allowance or other payments that have not been paid, paid time-off not taken and pro-rata leave must be paid.

If a domestic worker is dismissed without a valid reason or without a fair procedure, the domestic worker may approach the Commission for Conciliation, Mediation and Arbitration (see contact details) (CCMA) for assistance.

A domestic worker is **free to join a trade union**.

Documentation:

Confiscation of your passport and personal documentation either by a private employment agency or your employer is **NOT PERMITTED**.

[Section 4 is adapted from the South African Department of Labour's **Domestic Workers: What You Should Know** guide, 2012 and Sectoral Determination annual updates]

Resources:

- **Department of Labour** web page: All about domestic workers, www.labour.gov.za/DOL/find-more-info/all-about-domestic-workers
- **SA Unemployment Insurance Fund:** How to register with UIF, www.labour.gov.za/DOL/legislation/acts/how-tos/unemployment-insurance-fund-uif/document.2007-06-06.9164797706
- **SA Compensation Fund:** See Basic Guide to claiming for occupation injury, www.labour.gov.za/DOL/legislation/acts/basic-guides/basic-guide-to-claiming-compensation-for-occupational-injuries
- **SA Labour centres:** see web site for full list or call +27 (0)86 0022 198
- **Commission for Conciliation, Mediation and Arbitration (CCMA):** www.ccma.org.za | +27 (0)21 448 0044
- **South African Domestic Services and Allied Workers Union (SADSAWU):** www.sadsawu.com | +27 (0)21 448 0044
- **Migrants Workers Union of South Africa (MIWUSA):** miwusa@webmail.co.za
- **Zimbabwean Workers Union of South Africa (ZIWUSA):** +27 (0)11 038 1616
- **Consortium for Refugees and Migrants in South Africa (CORMSA):** www.cormsa.org.za | +27 (0)11 403 7560
- **PASSOP** (People Against Suffering, Oppression and Poverty): +27 (0)76 671 4708 | www.passop.co.za
413-414, Tulbagh Centre, Hans Strijdom Avenue Lane, Cape Town City Centre, Cape Town
- See numbers of Zimbabwe consulate in SA in previous section.

5. SENDING MONEY HOME

- Only send cash home with a person you fully trust; however, you must be aware there is always a risk to lose that money. It may be worth exploring other possibilities.
- Several South African banks advertise free money transfer services to both sender and receiver to Southern African countries including Zimbabwe. These advertisements are often misleading and hidden costs may be attached. Also note that this is for people who have managed to open a bank account in those banks and have registered for online or telephone banking. Bank money transfer services for those without an account may be as high as 21% especially if sending a small amount.
- For Zimbabwe, some available money transfer services are: Ecocash, Mukuru or Mama Money. They usually charge between 8 to 12% but transfer is done immediately. You register once in their offices in most South African cities and transfers are done from PicknPay, Spar, Checkers or Boxer supermarkets in South Africa to OK supermarkets, ATMS or even bank accounts in Zimbabwe.
- Another transfer service is Western Union. Fees are 8%.
- Sending money safely is not the only aspect you should consider. How your money is utilised is also important. Some organisations can assist you with learning how to plan a household budget, find a reliable money saving scheme, save for the education of your children, to build a house, to buy land, or to plan for your old age.

DISCLAIMER: The institutions and organisations supporting this booklet do not in any way endorse the brands cited on this page. Brands are only cited for information purposes. Indications provided on this page should be checked at the time of transaction as they are subject to change.

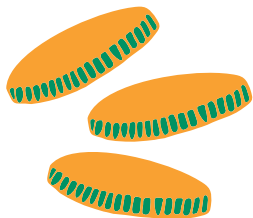
Useful numbers:

For financial education, see:

Ditsela Workers' Education Institute:

www.ditsela.org.za

- +27 (0)11 331 04702
4 Kruis Street (Cnr. Marshall Street), Johannesburg
- +27 (0)21 959 258121
22 Prefeb Building, University of the Western Cape, Bellville,
Cape Town



6. RETURNING HOME

Returning for a period of leave:

- Ensure you have all your documentation with you;
- Clarify, if possible in writing, what your leave dates are with your employer; agree on your return date;
- Having a contract in writing is the best guarantee not to be dismissed while you are away;
- Ensure that you stick to visa expiry dates and apply for renewals or leave the country before **expiry**. **Failing to do so will expose you to a fine** at the border and to be declared an undesirable migrant for a period of two years preventing you from coming back **legally** into the country.

Returning permanently and settling back:

- Ensure that you keep all the documents showing that you were employed and collect all due monies before you leave;
- You have the right to collect any due salary including if you have been arrested and detained, and if you are about to be deported back to your home country;
- Plan your return as much as possible: Where will you stay? What will your income be?
- Seek assistance from your ministry of labour if you have left unclaimed benefits in South Africa (see Useful numbers).

RETURNING TO ZIMBABWE

- If you are stranded on your return the National Ministry of Labour (MPSLSW) can provide you with overnight accommodation at the Beit Bridge and Plumtree Border Posts.
- You can also be assisted with transportation from the Border Post to your home destination.

PERSONAL NOTES

Write here whatever information you find useful:



THIS INFORMATION BOOKLET IS PUBLISHED / SUPPORTED BY:

(ZIM) Ministry of Public Services, Labour and Social Welfare

9th Floor, Kaguvi Building, Cnr. Central Avenue/4th Street

Harare, ZIMBABWE

+263 4 703871 / 705151 | www.mpslsw.gov.zw



Zimbabwe Congress of Trade Unions (ZCTU)

2nd and 3rd Floor, Gorlon House, 7 Jason Moyo Street

Harare, ZIMBABWE

+263 7 93093 | www.zctu.co.zw



Zimbabwe Domestic and Allied Workers Union (ZDAWU)

Suite 4, 1st Floor, Cannon House, 88 Kaguvi Street

Harare, ZIMBABWE

+263 4 753912



International Labour Organisation (ILO)

Route des Morillons 4, CH-1211 Geneva 22, SWITZERLAND

www.ilo.org



International
Labour
Organization

ILO Country Office for Zimbabwe & Namibia

Block 8 Arundel Office Park, Norfolk Road, Mt Pleasant

Harare, ZIMBABWE

+263 4 369805 12 / +263 772 129210 3 | www.ilo.org/harare



International
Labour
Organization



This publication was produced in the framework of the
Global Action Programme on Migrant Domestic Workers and their Families,
a project funded by the European Union.