



HIRING IN **SOUTH AFRICA**

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HIRING IN SOUTH AFRICA



Welcome to “Hiring in South Africa with Employ Africa,” where we simplify the complexities of the South African employment landscape. Our bespoke approach starts with a deep dive into your business and industry, ensuring our recruitment, Employer of Record, and Payroll services align perfectly with your needs. As your trusted partner in Africa, we’re committed to forging enduring partnerships. Our expert team offers customized solutions to propel your business forward. Rely on Employ Africa to expertly guide you through the nuances of hiring in South Africa, assembling a proficient workforce tailored to your business objectives.

What we’re covering in this document:



Types of Employment Contracts



Working Hours and Overtime



Minimum Wage and Compensation Laws



Leave Entitlements



Termination and Severance



Social Security and Benefits



Taxation



Employment of Foreign Nationals



Dispute Resolution

TYPES OF **EMPLOYMENT CONTRACTS**



South African employment contracts are categorized based on duration and work hours, aligning with labor law requirements to meet diverse employment needs.

FIXED-TERM CONTRACTS

These are tailored for specific-duration roles such as project completion, seasonal work, or temporary placements. South African legislation mandates strict regulation to prevent misuse, ensuring these contracts serve genuine purposes rather than avoiding the benefits of permanent employment. Notably, labor law amendments dictate that fixed-term contracts for employees below the Basic Conditions of Employment Act (BCEA) threshold, extended beyond three months without a justified reason, automatically convert into indefinite contracts. This safeguard protects lower-earning employees from exploitation and job insecurity through unjustified prolonged fixed-term employment.



INDEFINITE CONTRACTS

Designed for ongoing employment without a fixed end date, these contracts are for permanent positions, terminable by either party under lawful procedures. They guarantee employees comprehensive labor rights and benefits, such as statutory leave, protection against unfair dismissal, and severance, all governed by employment legislation to ensure equitable treatment and due process.

WORKING HOURS AND **OVERTIME**



In South Africa, the regulation of working hours, overtime, and compensation is governed by the Basic Conditions of Employment Act (BCEA). Standard working hours are set at a maximum of 45 hours per week, with a daily limit dependent on the number of workdays: 9 hours for a 5-day week and 8 hours for a 6-day week. Overtime work is voluntary and compensated at one and a half times the regular wage rate, with a limitation of 10 overtime hours per week. Additionally, special arrangements can apply for industries with unique requirements, subject to specific sectoral determinations. Employers must adhere to these regulations to ensure fair labor practices and worker well-being.



MINIMUM WAGE AND **COMPENSATION LAWS**

South Africa's minimum wage and compensation laws ensure workers receive fair pay for their labor. The National Minimum Wage Act sets the baseline for minimum hourly wages, periodically updated to reflect economic conditions. Additionally, sector-specific minimum wages apply to agriculture, domestic work, and others, recognizing the varied economic realities across sectors. Employers must comply with these laws, including provisions for annual wage increases and adjustments. Compensation beyond the minimum wage, including bonuses and overtime pay, is often governed by employment contracts and collective bargaining agreements.

LEAVE ENTITLEMENTS

Leave entitlements under the Basic Conditions of Employment Act include:



Annual leave
(21 consecutive days or 15 working days per year)



Sick leave
(36 days in a 3-year cycle)



Maternity leave
(up to 4 months, unpaid unless specified by employer)



Paternity leave
(10 consecutive days)



Family responsibility leave
(3 days per year)



TERMINATION AND SEVERANCE

Termination of employment must follow the Basic Conditions of Employment Act and the Labor Relations Act, requiring fair reasons and procedures. Severance pay is generally due for dismissals based on operational requirements, equating to at least one week's pay for each year of service. Employers and employees must adhere to notice periods, which vary based on the length of service. Unfair dismissal claims can be addressed through the CCMA, emphasizing the need for legal compliance in termination processes.

SOCIAL SECURITY **AND BENEFITS**



Social security and benefits encompass unemployment insurance, which provides benefits to workers who lose their jobs, and the Compensation for Occupational Injuries and Diseases Act (COIDA) for workplace injuries or diseases. Additionally, there are pension and provident funds for retirement savings, mandatory for certain sectors, and contributions to the South African Revenue Service (SARS) for tax purposes, including Pay-As-You-Earn (PAYE) on behalf of employees. Health insurance is typically provided by private companies, with some employers offering medical aid contributions as part of benefit packages.



TAXATION

Taxation on employment income includes PAYE, which employers deduct from employee wages and remit to the SARS. This system ensures income tax is collected incrementally. Tax rates vary based on income brackets, with progressive rates applied to higher earnings. Additionally, employees may be subject to Unemployment Insurance Fund (UIF) contributions, which provide short-term relief if they lose their job or cannot work. Taxation laws require compliance with detailed SARS regulations, including annual returns and accurate record-keeping.

EMPLOYMENT OF **FOREIGN NATIONALS**



Employing foreign nationals requires compliance with immigration laws, including obtaining valid work visas or permits. Different categories of work visas cater to various employment situations, such as general work visas, critical skills visas, and intra-company transfer visas. Employers must justify hiring a foreigner over a South African citizen by proving efforts to hire locally were unsuccessful. The process involves the Department of Home Affairs and may require proof of qualifications and experience, along with a confirmation of the job offer and the employer's support.



DISPUTE **RESOLUTION**

Employment disputes are primarily resolved through the Commission for Conciliation, Mediation and Arbitration (CCMA). This independent body facilitates dispute resolution between employees and employers, offering services like conciliation to mediate agreements and arbitration for binding resolutions. Labor courts also play a role for unresolved issues or appeals. The process emphasizes fair, efficient resolution, allowing both parties to present their case, aiming for equitable outcomes within the framework of South African labor law.

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