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South Africa's Labour Laws and Employment Regulations

Overview

Potential business owners investing in South Africa must be aware of the country's comprehensive labour laws and employment regulations. The labour law framework in South Africa is designed to protect employees' rights and ensure fair workplace treatment. Key aspects include the Labour Relations Act, Basic Conditions of Employment Act, and Employment Equity Act. Business owners must adhere to minimum wages, maximum working hours, leave entitlements, and fair termination procedures.

Additionally, employers are required to promote employment equity and eliminate unfair discrimination. Complying with these regulations is essential to avoid legal complications, maintain harmonious employee relations, and foster a productive and inclusive work environment in South Africa.

Basic Country Facts



Capital

Cape Town, Pretoria, Bloemfontein



Population

60.6 million

[Statistics South Africa](#)



Currency

South African Rand (ZAR)



GDP per Capita

USD 12,556.30 (as of 2021)

[The World Bank](#)

Employers in South Africa

Becoming an Employer in South Africa

A business may be:

- **A Sole Proprietorship** (a business owned/operated by an individual) or;
- **A Registered Legal Entity**

An employer in South Africa is any person who employs or provides work for any person and remunerates that person or expressly undertakes to remunerate.

Employers must register with SARS (South Africa Revenue Services) within 21 days.

Mandatory Registrations for Employers

Mandatory Registrations

- Registration with the **tax authority (SARS)**
- The **Unemployment Insurance Fund (UIF)**
- The **Skills Development Levy (SDL)** to promote learning and development
- The **Compensation for Injuries on Duty and Diseases Act (COIDA)**
 - Government insurance covering injuries/diseases on duty.

An **employee** is any person who:

- Works for an employer
- Receive any remuneration
- Works under the direction or supervision of any employer or any other person

Obligations as an Employer

Section 23 of the Constitution of the Republic of South Africa of 1996 guarantees everyone **the right to fair labour practices**. Employers must:

- Pay remuneration for the services provided by employees (Base Conditions of Employment Act 1997)
- Provide safe working conditions (Occupational Health & Safety Act 1993)
- Treat employees fairly (Employment Equity Act 1998)

Labour Laws in South Africa

Main Labour Laws

The Constitution of South Africa, Act 108 of 1996, is the supreme law of the land.

South Africa has three primary labour laws (as amended):

- **Basic Conditions of Employment Act** No. 75 of 1997
- **Labour Relations Act** No. 66 of 1995
- **Employment Equity Act** No. 55 of 1998

Main Labour Laws	Description
Basic Conditions of Employment Act	The Basic Conditions of Employment Act , (BCEA) No. 75 of 1997 (as amended) gives effect to the rights to fair labour practices.
Employment Equity Act	The Employment Equity Act (EEA) , No.55 of 1998 (as amended) aims to achieve equity in the workplace by promoting equal opportunity and fair treatment in employment through the elimination of unfair discrimination and implementing affirmative action measures.
Labour Relations Act	The Labour Relations Act (LRA) , No.66 of 1995 (as amended) regulates the organisational rights of trade unions and promotes and facilitates collective bargaining.
Minimum Wage	The Minimum Wage statutory requirement in South Africa is ZAR 25. Forty-two for each ordinary hour worked. This would equal ZAR 4200 monthly.

Data Protection in South Africa

- The **POPI Act** of 2020 (Protection of Personal Information) in South Africa sets out the minimum standards regarding accessing and 'processing' of any personal information belonging to another.
- Section 14 of the Constitution of the Republic of South Africa of 1996 provides that everyone has a right to privacy. The right to privacy includes a right to protection against the unlawful collection, retention, dissemination, and use of personal information.
- Breach of the POPI Act can result in a fine of up to R10 million and/or 10 years in jail.

Employment Contracts & Benefits

Types of Employment Contracts

There are three primary types of employment contracts in South Africa:

Type of Contract	Description
Permanent Contract	A permanent employee is a person employed for an undetermined period of time and has no agreed date of termination. Such a contract is terminated by either the employer (dismissal) or the employee (resignation) on notice.
Fixed Term Contract	A fixed term contract means a contract of employment that terminates on; the occurrence of a specified event; the completion of a specified task or project; a fixed date.
Project Based Contract	A project employment contract is an employment arrangement between an employer and a project employee wherein the latter's employment has been fixed for a specific project or undertaking. The project's completion or termination should be determined at the time of the engagement of the project employee.

Mandatory Benefits

Type of Benefit	Description
Overtime	The Basic Conditions of Employment Act states that all hours worked in excess of the employee's normal daily or weekly hours of work will be regarded as overtime hours. Overtime is calculated at either 1.5 or 2 times the employee's regular salary.
Breaks (Lunch)	An employer must give an employee a break of 60 minutes every 9 hours. A working week is 45 hours (usually Monday to Friday).
Weekend	Weekends (Saturday and Sunday) are not part of an employee's working week.

Leave (Paid Time Off Work)

Type of Leave	Entitlement
Annual Leave	15 working days annually
Sick Leave	36 days with full pay over a 3-year cycle
Maternity Leave	120 days unpaid (claim from UIF)
Paternity Leave	10 days unpaid
Family Responsibility/ Compassionate Leave	4 days with full pay every 12 months

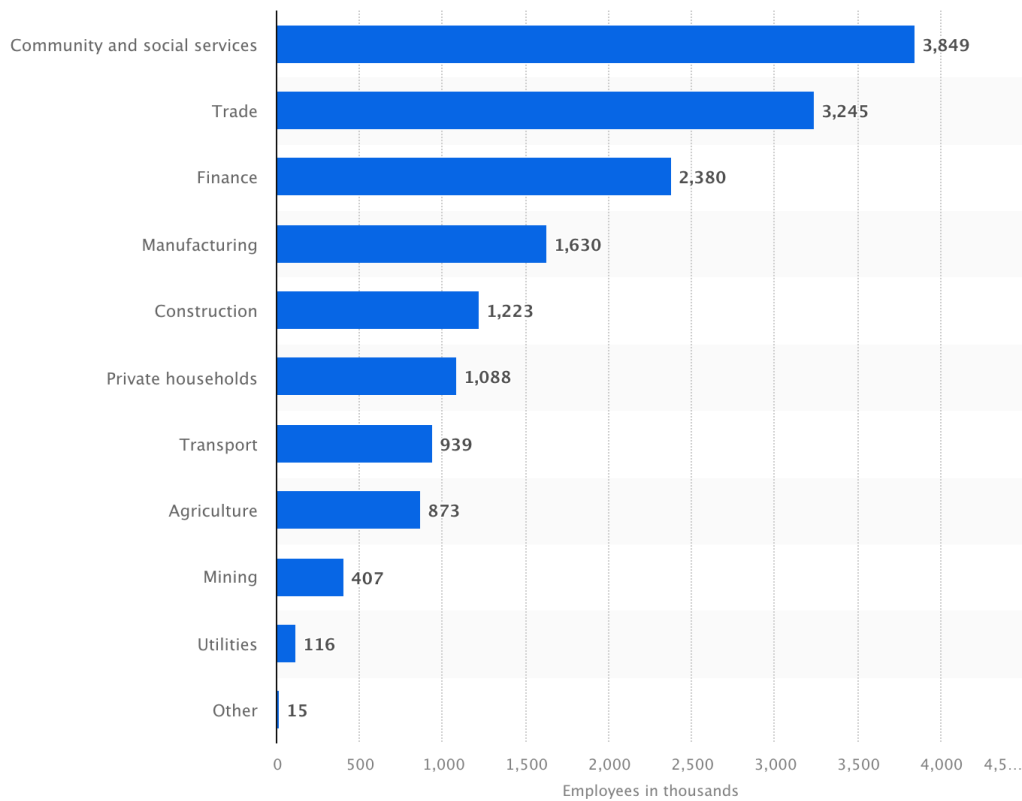
Non-Mandatory Benefits

- Retirement/Pension
- Medical aid/Insurance
- Insurance Policies – Life Coverage/Death Benefit, Funeral, Disability
- Housing
- Education
- Study leaves
- Transport

The Workforce in South Africa

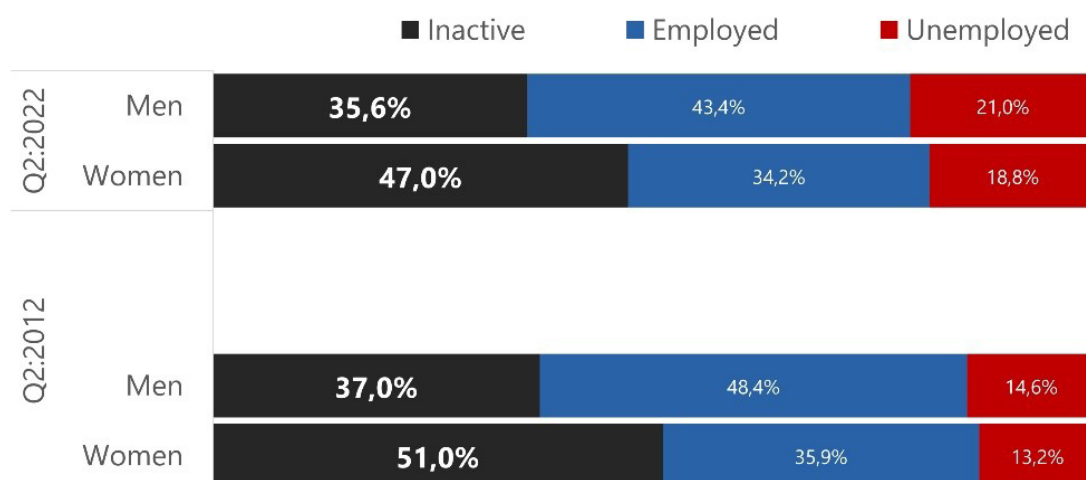
Number of People Employed in South Africa in Q3 2022, by Industry

As of Q3 of 2022, the largest employment industry in South Africa, with 3.85 million employees, was the community and social services industry. This was followed by the trade industry, which employed about 3.25 million people and the finance, construction, and manufacturing industries.



Source: [Statistics South Africa](#)

In South Africa 43.4% of Men and 34.2% of Women were Employed in Q2 of 2022

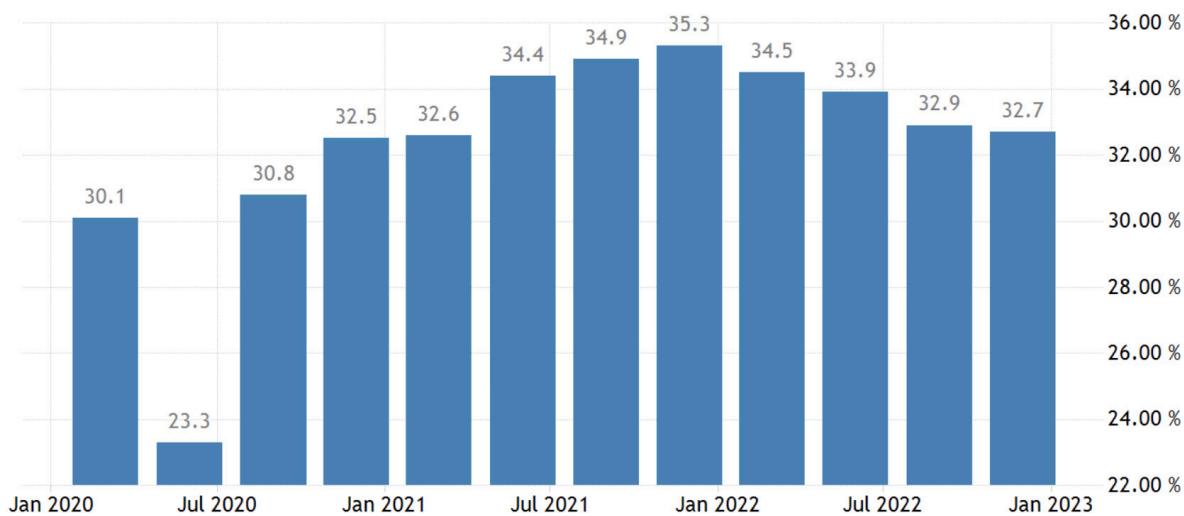


Source: Quarterly Labour Force Survey 2022: Q2



South Africa Unemployment Rate

South Africa's unemployment rate was 32.7% in January 2023, and the number of unemployed persons was 7.753 million. The employed workforce was 15.934 million, and the total available labour force was 23.688 million.



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Blue-collar/White-collar Workers

- South Blue-collar Workers have a pivotal role to play in the economy of South Africa.
- Blue-collar employees form a major part of the country's economy as constituting almost one third (33%) of the workforce.
- There is a minimum salary set by government in South Africa including blue-collar workers – currently in 2023 approximately ZAR 4200 per month.

The Work Culture in South Africa

Work Culture

- **Racial diversity** – Black South Africans make up around 81% of the total, coloured people 9%, whites 8% and Indians 3%. The country has the fifth-largest population in Africa.
- **Religious diversity** – 78% of the population is Christian, 2% is Islam, 1% is Hindu.
- Employers should create and maintain a working environment in which the dignity of employees is respected.
- Workplaces are hierarchical in South Africa, and those in the higher positions make the final decisions after consensus with subordinates.
- South Africans are generally very loyal to their employers.
- English is the primary language of business in South Africa (and there are ten other official languages in the country).

Public Holidays

The South African Public Holidays Act (Act 36 of 1994) states that whenever a public (bank) holiday falls on a Sunday, the Monday following it will be a public holiday. There are a total of **12 public holidays** observed in South Africa:

Date	Holiday Name in English	Holiday Name in Chinese
1 Jan 2023	New Year's Day	新年
21 Mar 2023	Human Rights Day	人权日
10 Apr 2023	Good Friday	耶稣受难日
18 Apr 2023	Family Day	家庭日
27 Apr 2023	Freedom Day	自由日
1 May 2023	Worker's Day	劳动节
16 Jun 2023	Youth Day	青年节
9 Aug 2023	National Women's Day	妇女节
24 Sep 2023	Heritage Day	文化遗产日
16 Dec 2023	Day of Reconciliation	和解日
25 Dec 2023	Christmas Day	圣诞节
26 Dec 2023	Day of Goodwill	友好日

Trade Unions

- Trade unions are independent organisations that represent workers to their employers.
- In South Africa, according to Section 23: Labour Relations in the Constitution, every worker has the right to join a trade union.
- Trade unions are an important force in South Africa, with 3.1 million members representing 25% of the formal workforce.
- The Labour Relations Act No.66 of 1995 regulates the organisational rights of trade unions and promotes and facilitates collective bargaining at the workplace.

Bargaining Councils

- Bargaining Councils exist in various industries in South Africa and may regulate the conditions of employment in specific industries.
- Bargaining Councils deal with collective agreements, solve labour disputes, establish various schemes and comment on labour policies and laws.
- A bargaining council is formed and established by one or more employer organisations and one or more trade unions.
- The bargaining council will also dictate hours of work, overtime rates and every aspect of the employment relationship.

Work Permits/Visas

Type of Visa	Description
General Work Visa	<ul style="list-style-type: none">• General Work Visas enable foreign nationals or the employing corporate wishing to fill employment positions South African citizens or permanent residents with the required skill set are not able, subject to submitting proof the employment positions cannot be fulfilled by a South African citizen.• A General Work Visa may be issued to any foreign national who intends to take up employment in South Africa on the basis of a firm offer of employment.
Corporate Visa	<ul style="list-style-type: none">• A Corporate Visa is a temporary work authorisation granted not to a foreign employee, but to a corporate entity (e.g. a mine) to employ a pre-determined number of skilled/semi-skilled/unskilled workers. This visa enables a corporate applicant to employ a large number of foreign nationals for a specific period.
Critical Skills Work Visa	<ul style="list-style-type: none">• The Critical Skills Work Visa enables the Department and the government to achieve the objectives of programmes such as National Development Plan (NDP), Industrial Policy Action Plan (IPAP) and New Growth Plan (NGP). The Department of Home Affairs has amended the Immigration legislation that came with various changes, which led to the introduction of Critical Skills Work Visa (CSWV).• The Critical Skills Work Visa is issued in accordance with the critical skills list which indicates occupations are in high demand.

Termination & Dismissal

Terminations

In terms of the Labour Relations Act 66 of 1995 (LRA), an employee has the right to be fairly dismissed. Reasons for dismissal/termination, would include:

Reason for Dismissal/ Termination	Description
Misconduct (Breach of a Rule)	<ul style="list-style-type: none">• Examples of serious misconduct are gross dishonesty or wilful damage to the property of the employer, wilful endangering of the safety of others, physical assault on the employer, a fellow employee, client or customer and gross insubordination.• Misconduct can result in an employee being suspended from their job, or summary (immediate) dismissal if very serious.

Reason for Dismissal/ Termination	Description
Operational Requirements (Redundancy/Retrenchment)	<ul style="list-style-type: none"> Operational requirements are defined in section 213 of the LRA to be “economical, technological, structural or similar needs of the employer.” Dismissals for operational requirements are classed as “no fault” dismissals – meaning that the dismissal is not due to any fault of the employee. In terms of the BCEA, employees who are retrenched are entitled to a minimum severance payment of one week’s remuneration for each completed year of service.
Incapacity (this is inclusive of ill health, poor work performance and incompatibility)	<ul style="list-style-type: none"> Incapacity refers to the situation where an employee is unable to carry out or perform to his/her contracted obligations due to the inherent inability on the part of the employee. Incapacity is distinguished from misconduct and discipline in that ‘fault’ or; ‘blame’ is not alleged in incapacity. <p>Incapacity – Disability</p> <ul style="list-style-type: none"> Disability in South Africa is defined as “people who have a long-term or recurring physical or mental impairment which substantially limits their prospects of entry into, or advancement in, employment”. Labour legislation requires an employer to reasonably accommodate the needs of an employee with physical or mental impairments when such impairment substantially limits the employee’s ability to perform the essential functions of the job. <p>Incapacity – Poor Work Performance</p> <ul style="list-style-type: none"> Poor work performance, or incapacity, is dealt with in Schedule 8 of the Labour Relations Act no. 66 of 1995 and refers to the inability of an employee to perform in terms of the employer’s expectations pertaining to quantity, quality or both. Poor work performance or failure by the employee to reach and maintain the employer’s work performance standards in terms of quantity and quality of output. This can result in the termination of the employment relationship.

What Amounts to Unfair Dismissal?

Validity	Where the employer fails to prove that the reason for the termination is valid.
For a Fair Reason	Where there is a lack of capacity, incompatibility, bad conduct (misconduct), or is based on the operational requirements of the employer.
Fair Procedure	Where the employer fails to prove that he has applied a fair procedure in effecting the termination.
Justice & Equity	Where the employer fails to prove that it acted in accordance with justice and equity in terminating the employee. (How was the decision arrived at? How was the decision communicated? How was the appeal dealt with? (Consistency, progressive discipline, any warning letters etc).

Unfair Dismissals

- If a worker thinks that the dismissal was unfair, in other words, that the employer didn't follow fair procedures or there is not a 'good reason' for the dismissal, then the worker can challenge the dismissal.
- Unfair dismissals can be referred to the CCMA or the South African Labour Court.
- If a dismissal is found to be unfair, the worker will be able to get reinstated or re-employed or get compensation money (typically up to 12 months' salary).
- Reinstatement means the worker gets the job back as if she or he was never dismissed.

Commission for Conciliation Mediation and Arbitration (CCMA)

- Established in terms of the Labour Relations Act, 1995 as amended.
- Mandated to promote social justice and fairness in the workplace.
- Conciliate workplace disputes (unfair dismissals and unfair labour practices).

Labour Court

The Labour Court is a South African court that handles labour law cases, which are, disputes arising from the relationship between employer, employee, and trade union. The court was established by the Labour Relations Act, 1995, and has a status like that of a division of the High Court.

Challenges Employers Face in South Africa

Major challenges employers face in South Africa, would include:

Major Challenges	Description
Employee Retention	The demand for work experience, makes it appealing for employees to want to change jobs and makes it more difficult for employers to retain experienced employees.
Scarce Skills Shortage	There is a limited pool of specific skills across multiple industries and types of jobs in South Africa. The I.T. and Telecoms industries are typical examples of this.
Compliance with Regulations	The labour and tax laws in South Africa are relatively complex, and employers find these aspects of running their businesses challenging when trying to do this by themselves.

Payroll Administration - Statutory

Income Tax in South Africa

- South Africa Tax Year starts 1st of March each year and ends on the 28th of February following year.
- The South Africa Income Tax uses a progressive tax rate approach.
- All individuals have the right to a yearly tax rebate on their income.
- The SARS (South Africa Revenue Service) collects the Income Tax, UIF and SDL in South Africa on a monthly basis.
- The Department of Labour collects the COIDA payments on an annual basis.

Income Tax Table

Taxable Income (R)	Rates of Tax (R)
1 – 237,100	18% of Taxable Income
237,101 – 370,500	42,678 + 26% of taxable income above 237,100
370,501 – 512,800	77,362 + 31% of taxable income above 370,500
512,801 – 673,000	121,475 + 36% of taxable income above 512,800
673,001 – 857,900	179,147 + 39% of taxable income above 673,000
857,901 – 1,817,000	251,258 + 41% of taxable income above 857,900
1,817,001 and above	644,489 + 45% of taxable income above 1,817,000

Yearly Tax Rebate

Category	Annual Rebate
Primary	R 17,235
Secondary (65 and older)	R 9,444
Tertiary (75 and older)	R 3,145

Social Charges in South Africa

Social Charges	Employee	Employer
Skills Development Levy (SDL)	1% of total salaries	1% of total salaries
Unemployment Insurance Fund (UIF)	1% of remuneration which is capped at R 17,712	1% of remuneration which is capped at R 17,712
Compensation for Occupational Injuries and Diseases Act (COIDA)	N/A	% following assessment by the Department of Labour (around 2%)

Payroll Administration in South Africa

Salary payments must be made by latest the 7th of the following month to all employees in South Africa.

Period	Employer Returns	Authority	Period	Due Date
Monthly	EMP 201	SARS	1 st of month to end of month	7 th of following month
Mid Year	EMP 501	SARS	1 st of March to 31 st of August	31 st of October
Annual	EMP 501	SARS	1 st of March to 28 th of February	31 st of May
Annual	COIDA Annual Return	Department of Labour	1 st of March to 28 th of February	1 st of April

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Sources

1. [Statistics South Africa](#)
2. [The World Bank](#)

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