

Strategies to
inspire, organise
and represent
workers.

The Negotiator's Guide

LRS Labour
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5

A framework for negotiating conditions at work

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Service



How to use this framework

This chapter stands for the possibility of negotiating better conditions at work¹, no matter where the workplace is located, no matter what the status of workers, and no matter how unorganised workers are.

1. Conditions at work: The rules and conditions of service that apply to workers in policy and also in practice. Some rules and conditions might be unwritten or even unspoken, even though they are accepted and enforced.

This chapter provides a framework for thinking about collective agreements and conditions at work. This chapter is for worker leaders and officials, new and old. This chapter should also be useful for worker leaders in more informal workplaces as they attempt to establish minimum standards.

This chapter aims to help negotiators and other roleplayers think about what is in a collective agreement and what they can still negotiate.

Section 1: (page 9 of this document)

The main types of conditions at work and the value of these conditions

Section 1 describes 15 of the main types of conditions at work and the value of each of those conditions. This gives a negotiator a structured way of looking at conditions at work. Are minimum standards in place for each of the main types of conditions at work?

What is the principle behind a condition at work? Conditions at work are not simply a number of days, or a number of hours or an amount of money. Conditions at work always have a principle of well-being, fairness or a social value that underpins them. This principle forms the foundation of arguments in negotiations.

For example, a negotiation about allowances is not just about pay. It is about recognising that some workplaces and some types of work put special demands on workers, and that special allowances should be made for these special demands.

In a similar way, a negotiation about hours of work is not just about pay. It is also about limiting extraordinary hours and compensating workers for anti-social hours of work, like late-trading, weekends and public holidays. Those who work nights and weekends lose opportunities to participate in important family, community and cultural events.

The main types of conditions at work:

1. Allowances

2. Forms of employment

3. Discrimination

4. Health and safety at work

5. Hours of work

6. Leave

7. Legal norms and minimums

8. Parental Rights

9. Pay

10. Security

11. Retrenchment

12. Technology

13. Trade union rights

14. Training and progression

15. Transport

Section 2: (page 16 of this document)

Examples of the main types of conditions at work, the law and other benchmarks

Section 2 provides examples of clauses that deal with the main types of conditions at work using legislated minimums and examples from existing collective agreements.

This is not a complete list of conditions at work. It is a set of minimum conditions at work upon which a negotiator can build.

A negotiator can use this table as a checklist of what to look for in collective agreements and to identify conditions that can still be negotiated. Bear in mind that most of these examples describe minimum conditions of law, and a negotiator would try to go beyond these minimum levels. However, if certain conditions are not yet in an agreement, then the minimum level is a good starting point.



Identifying the right individual, enterprise or organisation to bargain with is a precondition for negotiation.

Negotiating conditions at work in less formal settings

Negotiators who are operating in more informal settings can use this resource to identify conditions of work which could be applied to their workplaces.

The issues of security, parental responsibility, hours of work, and so on are universal and apply in one way or another to all workers and all workplaces, even if the possibilities for workers to win better conditions vary.

Even if there is no collective agreement in your workplace, there are always conditions at work. Even where there is no written contract of employment or formal agreement of conditions at work, there will be a set of rules or conditions which apply in practice and that are enforced by employers in one way or another.

Identifying the right individual, enterprise or organisation to bargain with is a precondition for negotiation. A negotiator can use this framework to try and understand which conditions of work are important to the workers that they wish to represent. Knowing what is important to workers helps define who the best bargaining partner would be.

As an example, for informal traders in public spaces, the site or location of their work and the support or harassment that goes with it might be the central issue. The question then is, who regulates these spaces? In the case of informal traders, this would point you towards the municipality and one or more law enforcement agencies as potential bargaining partners.

Here is another example. Workers supplied by temporary employment services face many challenges, and security of employment is one of them. Amendments to Section 198 of the Labour Relations Act open up the possibility of negotiating their employment status with the client company rather than the temporary employment service.

There is always a possibility for bargaining.

1

The Main Types of Conditions at Work.

The value of these conditions



1. Allowances

Principle

Recognise that certain workplaces and types of work make special demands on workers and that special allowances should be made for this.

Examples

There are different kinds of allowances: shift, fridge, danger, travel, living out, standby, acting and transport allowances.



2. Forms of employment

Principle

- Recognising different types of employment, but understanding that all need security and stability in employment.
- Promoting pay and benefit equity for the different forms of employment.

Examples

Favouring permanent full-time jobs and regulating part-time, temporary employment, limited duration contract and casual work.



3. Discrimination

Principle

- Recognising discriminatory policy and practice in the workplace.
- Recognising and valuing the needs of women and men at work.
- Recognising and valuing differences in sexual identity and orientation in the context of work.

Examples

Clauses in agreements that promote the participation of women and men in trade union life and in work life.

Processes for dealing with discrimination, sexual harassment and gender-based violence.



4. Health and Safety at work

Principle

Maintaining and promoting worker health and safety in the workplace and in the course of workers' duties.

Examples

- Designated health and safety representatives with duties and powers.
- Evaluating hazards in the workplace



5. Hours of Work

Principle

- To provide enough guaranteed hours of work for decent pay.
- To provide a regular schedule of hours of work to allow workers to plan for the fulfilment of family responsibilities and the opportunity to participate in established social and cultural events.
- To limit hours of work so that workers may rest, rejuvenate and stay safe.
- Compensating workers for anti-social hours of work (late-trading, weekends and public holidays).

Examples

Overtime, guaranteed minimum hours, short-time, averaging of hours, compressed working week, shift work.



6. Leave

Principle

- Leave, in all its forms, is a very important indicator of the well being of workers and in establishing a balance between work and life.
- It could mean having time to rest, time to recover from illness, or time to participate in important private, cultural and community events.

Examples

Annual leave, sick leave, family responsibility leave, parental leave, maternity leave and shop stewards' leave.



7. Legal Norms and Minimums

Principle

References to the existing laws which establish minimum conditions and codes of good practice

Examples

- Basic Conditions of Employment Act²
- National Minimum Wage Act³
- Sectoral determinations
- Bargaining Councils
- Labour Relations Act⁴



8. Parental Rights

Principle

Recognising, valuing and sharing the responsibility of raising our children.

Examples

Maternity rights and benefits, paternity leave, parental leave, family responsibility leave, leave for antenatal and postnatal check-ups.

2. "Acts." n.d. <https://bit.ly/3ofOsea>

3. "Government Gazette." 2018. <https://bit.ly/3AOzqAO>

4. "Acts." n.d. www.labour.gov.za. <https://bit.ly/3AQs2oL>



9. Pay

Principle

Compensation for labour and time.

Examples

Wages, annual increases, allowances, overtime, regular and reliable monthly wages.



10. Security

Principle or

To provide some security of employment (duration) and security in employment (measures that help protect workers from financial shocks resulting from retrenchment, retirement, death and disability).

Examples

This includes secure employment, reliable wages, decent pay, medical benefits and retirement savings.



11. Retrenchment

Principle

To protect workers from disguised dismissal on the basis of operational requirements and to support workers facing retrenchment.

Examples

Labour Relations Act, 2018, Section 189



12. Training and Progression

Principle

Creating opportunities for learning and better pay and conditions of work.

Examples

Study leave, bursaries, financial support for further education, skills programmes and a skills development plan.



13. Technology

Principle

Dealing with new technology in the workplace and the implications for worker health, work intensity, accountability, transparency and fairness.

Examples

- Remote work - The right to disconnect (from time-to-time from online platforms and applications)
 - Transparency and fairness in automation and management by algorithms.
 - The arrangement of shift work.
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14. Trade Union Rights

Principle

Provide a rational and consistent framework for regulating the relationship between the union and the employer. This gives effect to workers' rights to freedom of association.

Examples

Leave for shop stewards to attend to trade union matters, facilities for shop stewards, the right to communicate with workers and access to workers.



15. Transport

Principle

Recognising the spatial politics of post-Apartheid South Africa and making allowances for the challenges many workers face travelling to and from work, including the danger that travel poses to workers who are on the roads in order to perform their jobs.

Examples

Safe transport arrangements, hours of work that promote safe travel, subsidising transport costs for workers.

2

Main Types of Conditions at Work.

*The Law & Other Benchmarks*⁵



1. Allowances

Examples

Allowances

Shift, fridge, tool, danger, travel, living out, subsistence, standby, acting and transport allowances.

Legislated Minimums & Other Benchmarks

Night work

An employer may only require or permit an employee to perform night work, if so agreed, and if - (a) The employee is compensated by the payment of an allowance, which may be a shift allowance, or by a reduction of working hours. (b) Transportation is available between the employee's place of residence and the workplace at the commencement and conclusion of the employee's shift. (Basic Conditions of Employment Act, Section 17(2)).

More Benchmarks

- Shift allowance: 30% of basic wage (AWARD average rate).
- Acting allowance: 15% of basic wage (AWARD average rate).
- Night Shift allowance: 13% of basic wage (AWARD average rate).

AWARD is a database of minimum wages and conditions of work in collective agreement in South Africa, maintained by the LRS.

5. "Acts." n.d. www.labour.gov.za. <https://www.labour.gov.za/DocumentCenter/Pages/Acts.aspx>



2. Forms of Employment

Examples

Temporary or permanent

- Section 198A (1) In this section, a “temporary service” means work for a client by an employee —
 - (a) for a period not exceeding three months; ...
- (3) For the purposes of this Act, an employee—
 - (b) not performing such temporary service for the client is— (i) deemed to be the employee of that client and the client is deemed to be the employer; and (ii) subject to the provisions of section 198B, employed on an indefinite basis by the client. (Labour Relations Act, 2018, Section 198A).

Legislated Minimums & Other Benchmarks

Pay for casual workers

An employer shall pay a casual employee in respect of each hour or part of an hour (excluding overtime) worked by the employee on any day other than a paid public holiday or a Sunday not less than the hourly wage as calculated in terms of clause 4(7)(b) for an ordinary employee who in the same area performs the same class of work as the casual employee is required to do, plus 15% or not less than the hourly wage or hourly equivalent of the salary actually being paid to the ordinary employee, whichever is the greater amount. (Bargaining Council for the Private Security Sector, Government Gazette #43036 of 20 February 2020).

More Benchmarks

Who is responsible?

Section 198 (4) The temporary employment service and the client are jointly and severally liable if the temporary employment service, in respect of any of its employees, contravenes — (a) a collective agreement concluded in a bargaining council that regulates terms and conditions of employment; (c) the Basic Conditions of Employment Act; or (d) a sectoral determination made in terms of the Basic Conditions of Employment Act. (Labour Relations Act, 2018, Section 198).



3. Equality

Examples

Discrimination

No person may unfairly discriminate, directly or indirectly, against an employee, in any employment policy or practice, on one or more grounds, including race, gender, sex, pregnancy, marital status, family responsibility, ethnic or social origin, colour, sexual orientation, age, disability, religion, HIV status, belief, political opinion, culture, language and birth. (Employment Equity Act, Section 6).

Legislated Minimums & Other Benchmarks

Equal pay for equal work

It is not unfair discrimination if the difference in pay or remuneration is fair and rational and is based on any one or a combination of the following factors - 7.3.1. seniority or length of service; 7.3.2. qualifications, ability, competence or potential; 7.3.3. performance, quantity or quality of work, provided that employees are equally subject to a performance evaluation system that is consistently applied; 7.3.4. where an employee is demoted as a result of organisational restructuring or for any other legitimate reason without a reduction in pay/remuneration; 7.3.5. where an individual is employed temporarily to gain experience or training; 7.3.6. there is a shortage of relevant skills in a particular job; and 7.3.7. any other relevant factor that is not unfairly discriminatory in terms of Section 6(1) of the Act. 7.4. These factors may not be used to determine pay /remuneration in a manner that is biased

or indirectly discriminates against an employee or group. (Employment Equity Act: Code of Good Practice on Equal Pay/Remuneration for Work of Equal Value, Gazette 1 June 2015, No. 38837).

More Benchmarks

Violence and harassment in the workplace

- (a) The term “violence and harassment” in the world of work refers to a range of unacceptable behaviours and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm, and includes gender-based violence and harassment;
 - (b) The term “gender-based violence and harassment” means violence and harassment directed at persons because of their sex or gender, or affecting persons of a particular sex or gender disproportionately, and includes sexual harassment.
 - (Convention C190, International Labour Organisation, ratified by South Africa).
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4. Health & Safety at Work

Examples

Eligibility of safety representatives

Only those employees employed in a full-time capacity at a specific workplace and who are acquainted with conditions and activities at that workplace or section thereof, as the case may be, shall be eligible for designation as health and safety representatives for that workplace or section. (Occupational Health and Safety Act, Section 17.1).

Threshold for safety representatives

Every employer who has more than 20 employees in his employment at any workplace, shall ... designate in writing for a specified period health and safety representatives for such workplace, or for different sections thereof. (Occupational Health and Safety Act, Section 17.1).

Legislated Minimums & Other Benchmarks

Number of health and safety representatives

The number of health and safety representatives for a workplace or section thereof shall, in the case of shops and offices be at least 1 for every 100 employees or part thereof, and in the case of all other workplaces, at least 1 health and safety representative for every 50 employees or part thereof: provided that those employees performing work at a workplace other than that where they ordinarily report for duty, shall be deemed to be working at the workplace where they so report for duty. (Occupational Health and Safety Act, Section 17.5).

Hours of work of health and safety representatives
All activities regarding the designation, function and training of representatives must be performed during normal working hours.

More Benchmarks

Role and function of health & safety representatives

Health and safety representatives are entitled to do the following:

- (1) Representatives may check the effectiveness of health and safety measures by means of health and safety audits.
 - (2) Representatives may identify potential dangers in the workplace and report them to the health and safety committee or the employer.
 - (3) Representatives may, together with the employer, investigate incidents or complaints from workers regarding health and safety matters and report them in writing.
 - (4) Representatives may make representations regarding the safety of the workplace to the employer or the health and safety committee or, where the representations are unsuccessful, to an inspector.
 - (5) Representatives may (a) inspect the workplace after notifying the employer of the inspection, (b) participate in discussions with inspectors at the workplace and accompany inspectors on inspections, (c) inspect documents, (d) with the consent of his/her employer, be accompanied by a technical advisor during an inspection.
 - (6) Representatives must attend health and safety committee meetings. (Department of Employment & Labour, Health & Safety in the Workplace).
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5. Hours of Work

Examples

Ordinary hours of work

An employer may not require or permit an employee to work more than 45 hours in a week, or 9 hours on any day if the employee works 5 days or fewer in a week, or 8 hours in any day if the employee works for more than 5 days in a week. (Basic Conditions of Employment Act, Section 9).

Legislated Minimums & Other Benchmarks

Overtime – Collective Agreement and the Basic Conditions of Employment Act

- The legal minimums of the Basic Conditions of Employment Act can be varied further only by collective agreement. A negotiator therefore has an opportunity to resist these variations in collective bargaining.
- Understanding what time is considered ordinary hours and what time is considered overtime can become very complex if a collective agreement includes all the variations that are allowed by the BCEA. This is something to avoid.
- In the Basic Conditions of Employment Act, section 9(2), the maximum ordinary hours of work can be varied by agreement up to 10 hours for a short week (5 days or fewer) and 9 hours per day for a 6 day week.

More Benchmarks

More about overtime

- Sections 11 and 12 allow an employer to require an employee to work very long hours in some weeks, while keeping hours lower in other weeks, and to still meet the limits allowed by the Act. The limits here are (a) an average of 45 ordinary hours per week over the agreed period and (b) an average of 5 hours' overtime in a week over the agreed period.
 - Section 11 (1) Compressed working week: An agreement in writing may require or permit an employee to work up to 12 hours in a day, inclusive of meal intervals (Section 14) without receiving overtime pay. The limits here are (a) maximum 45 hours of work in any week; (b) 10 hours of overtime in any week, or (c) 5 days in any week.
 - Section 12: A collective agreement can allow the averaging of ordinary hours of work and overtime over a period of up to 4 months
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6. Leave

Examples

Annual leave

- An employer must grant an employee at least 21 consecutive days' annual leave on full remuneration in respect of each annual leave cycle of 12 months. (Basic Conditions of Employment Act, section 20(2a)).
- An employer must grant an employee an additional day of paid leave if a public holiday falls on a day during an employee's annual leave on which the employee would ordinarily have worked. (Basic Conditions of Employment Act, Section 20(8)).
- The chapter on Leave in the Basic Conditions of Employment Act applies to employees that work 24 or more hours per month for an employer.

Legislated Minimums & Other Benchmarks

Maternity leave and work arrangements

- 5.12. Arrangements should be made for pregnant and breast-feeding employees to be able to attend antenatal and postnatal clinics as required during pregnancy and after birth.
- 5.3. Where appropriate, employers should also maintain a list of employment positions not involving risk, to which pregnant or breast-feeding employees could be transferred. (Basic Conditions of Employment Act: Code of Good Practice on the Protection of Employees during Pregnancy and after the Birth of a Child).

More Benchmarks

More about maternity leave and work arrangements

- In terms of section 26(2) of the BCEA, an employer must offer suitable alternative employment to an employee during pregnancy if her work poses a danger to her health or safety or that of her child or if the employee is engaged in night work (between 18:00 and 06:00), unless it is not practical to do so. Alternative employment must be on terms that are no less favourable than the employee's ordinary terms and conditions of employment. (Basic Conditions of Employment Act: Code of Good Practice on the Protection of Employees during Pregnancy and after the Birth of a Child).
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7. Legal Norms and Minimums

Examples

6. "Compensation for Occupational Injuries and Diseases Act 130 of 1993 | South African Government." n.d. <https://bit.ly/3IOEGr0>

7. "Government Gazette." 2018. <https://bit.ly/3s0P48o>

8. "Government Gazette REPUBLIC of SOUTH AFRICA." 2002. <https://bit.ly/3GI9PAN>

Acts

- Basic Conditions of Employment Act
- Compensation for Occupational Injury and Diseases Act⁶
- Labour Relations Act
- National Minimum Wage Act⁷
- Occupational Health and Safety Act
- Sectoral Determinations
- Unemployment Insurance Fund Act⁸

Legislated Minimums & Other Benchmarks

Collective Bargaining and other Agreements

- Bargaining Council Agreements
- Collective Bargaining Agreements
- Sectoral Determinations



You can find Acts and Codes of Good Practice at <http://www.labour.gov.za/documentcenter>

More Benchmarks

Codes of Good Practice

- Labour Relations Act (a) Collective Bargaining, Industrial Action & Picketing (b) Dismissal (c) Dismissal for Operational Reasons (d) NEDLAC Accord on Collective Bargaining and Industrial Action (e) Picketing (f) Who is an employee?
 - Basic Conditions of Employment Act (a) Arrangement of Working Time (b) Code of Good Practice for Expanded Public Works Programmes (c) Employing Children in Advertising, Artistic or Cultural Activities (d) Protection of Employees during pregnancy and after Birth of a Child
 - Employment Equity Act (a) Employment of Persons with Disabilities (b) Equal pay / Remuneration for Work of Equal Value (c) Handling of Sexual Harassment Cases in the Workplace (d)
 - HIV and AIDS and the World of Work (e) Integrating Employment Equity into Human Resource Policies (f) Key Aspects of HIV/AIDS and Employment (g) Preparing, Implementing and Monitoring Employment Equity Plans (h) Preventing and Eliminating Violence and Harassment - Draft Code.
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8. Parental Rights

Examples

Family Responsibility Leave

- Full-time employees are entitled to 3 days of paid family responsibility leave per year, on request, when the employee's child is sick, or in the event of the death of the employee's spouse or life partner, or the employee's parent, adoptive parent, grandparent, child, adopted child, grandchild or sibling. (Basic Conditions of Employment Act, 2018, Section 27 as amended 17 February 2020, Gazette 43026).

Legislated Minimums & Other Benchmarks

Parental Leave

- Section 25A (1) An employee who is a parent of a child is entitled to at least 10 consecutive days of parental leave, when the employee's child is born, or the adoption is granted, or the child is placed in the care of a prospective adoptive parent by a competent court, pending the finalisation of an adoption order.
- (5) The payment of parental benefits will be determined by the Minister, subject to the provisions of the Unemployment Insurance Act No.63 of 2001. An employee is entitled to 66% of his or her regular earnings subject to the maximum income threshold as per the Unemployment Insurance Act. (Labour Laws Amendment Act No.10 of 2018 amending the Basic Conditions of Employment Act, 2018).

More Benchmarks

Who qualifies for Parental Leave?

- Both male and female employees may qualify for parental leave, depending on the circumstances. However, if the employee gave birth to the child, she will not qualify for parental leave. Such employees are entitled to 4 months unpaid maternity leave.
- Female employees may, however, qualify for parental leave in circumstances where such employee is one of the adoptive parents or a prospective adoptive parent as per the definitions above. For the purposes of adoption leave, the child must be younger than 2 years of age. (J du Toit, SA Labour Guide, <https://www.labourguide.co.za/recent-articles/2665-parental-leave>, accessed 11/06/21).



9. Pay

Examples

Choose an approach to wage increases

- a) Across-the-board percentage (%) increases.
- b) Staggered percentage (%) increases – higher % for low earners and lower % for high earners.
- c) Percentage increase or a money amount, whichever is greater for the worker as an amount of money.

Legislated Minimums & Other Benchmarks

Minimum guaranteed hours

- Daily wage payment. An employee or a worker, as defined in Section 1 of the National Minimum Wage Act of 2018, who works for less than 4 hours on any day, must be paid for 4 hours of work on that day. (Basic Conditions of Employment Act, Section 9A)
- Guaranteed minimum hours of work: An employer shall not employ any employee to work for less than 6 hours per day. If an employee works for less than 6 hours, then that employee shall be paid for 6 hours. (Bargaining Council for the Contract Cleaning Industry, Main agreement, 2020).

More Benchmarks

Payment in kind

- An employer shall not, as a condition of employment, require an employee to accept accommodation, meals or rations from the employer or from any person or at any place nominated by the employer. An employer shall not, as a condition of employment, require an employee to receive any in kind form of payment in lieu of salaries or as part thereof. (Bargaining Council for the Private Security Sector, 2020).
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10. Retrenchment

Examples

Labour Relations Act, 2018, Section 189

Legislated Minimums & Other Benchmarks

Dismissals based on operational requirements.

- (1) When an employer contemplates dismissing one or more employees for reasons based on the employer's operational requirements, the employer must consult ...
(d) ... the employees likely be affected by the proposed dismissals or their representatives nominated for that purpose. (Labour Relations Act, Section 189, 2018).

More Benchmarks

- (2) The employer and the other consulting parties must in the consultation envisaged by subsections (1) and (3) engage in a **meaningful joint consensus-seeking process** and attempt to reach consensus on:
 - (a) appropriate measures —
 - (i) to avoid the dismissals;
 - (ii) to minimise the number of dismissals;
 - (iii) to change the timing of the dismissals; and
 - (iv) to mitigate the adverse effects of the dismissals;
 - (b) the method for selecting the employees to be dismissed; and
 - (c) the severance pay for dismissed employees.
(Labour Relations Act, Section 189, 2018)

An employee dismissed for operational requirements or whose contract of employment is terminated in terms of Section 38 of the Insolvency Act, 1936, is entitled to 1 week's severance pay for every year of service. (Basic Conditions of Employment Act, Section 41).



11. Security

Examples

Different aspects of security at work

Security in employment includes secure (continuing) employment, reliable wages, decent pay, health benefits, safety standards, retirement savings and severance packages.

Legislated Minimums & Other Benchmarks

The following list is a set of questions a negotiator can ask of a collective agreement to establish what level of security or insecurity workers experience at work:

More Benchmarks

Assessing the level of security that workers experience

- How secure is the job? (full-time, part-time, indefinite employment, contracted, limited-duration contract, temporary employment service or casual labour)
- Are workers able to work sufficient ordinary hours of work to make a decent wage?
- Is the monthly income of workers stable and predictable?
- Do workers have savings for retirement?
- Do workers have any health benefits?



12. Transport

Examples

Safe transport arrangements, hours of work that promote safe travel, subsidising transport costs for workers.

Legislated Minimums & Other Benchmarks

Transport and Night Work

An employer may only require or permit an employee to perform night work, if so agreed, and if:

(a) the employee is compensated by the payment of an allowance, which may be a shift allowance, or by a reduction of working hours.

More Benchmarks

Transport and Night Work

An employer may only require or permit an employee to perform night work, if so agreed, and if:

(b) Transportation is available between the employee's place of residence and the workplace at the commencement and conclusion of the employee's shift.
(Basic Conditions of Employment Act, Section 17(2))



13. Technology

Examples

Section (2) Technological change

'Technological change' means the introduction by the employer of manufacturing equipment substantially different in nature or type from that previously utilised at the establishment or of substantial modifications to present manufacturing equipment.

(These clauses are drawn from the Metal & Engineering Industry Bargaining Council (MEIBC), Consolidated Main Agreement, 2020-2021)

Legislated Minimums & Other Benchmarks

Technological change - Duty to inform

(a) Notification. Where an employer intends to introduce technological change, s/he shall notify the representative party trade union(s) and/or employee representative body not less than 4 months prior to the implementation date of such change. The notice shall be given in writing and shall contain relevant information, including:

- (i) The nature of the change;
- (ii) The approximate date on which the employer proposes to effect the change;
- (iii) The employees likely to be affected by the change;
- (iv) The anticipated effect of the change on employees' working conditions and terms of employment; and
- (iv) Any other relevant information relating to the anticipated effects on employees, including the change in skills.

The employer shall update the information provided, on a continuous basis, as soon as new developments arise or if any modifications are made

More Benchmarks

Work reorganisation – Duty to consult

Where an employer intends to introduce major work reorganisation which will substantially and materially affect the work of employees, the employer shall consult, in an endeavour to reach agreement with the representative party trade union(s) and/or any employee representative body, on the implications of the work reorganisation, including:

- (i) The need to re-train employees affected by such work reorganisation; and
- (ii) Any possible impact on the health, safety and work environment of the affected employees.

Notification - The company shall notify the union(s) and/or employee representative body of any such work re-organisation not less than 42 days prior to the implementation of the work reorganisation.



14. Trade union rights

Examples

Leave for shop stewards

- Shop stewards are entitled to reasonable paid time off during working hours to attend to their responsibilities. (Labour Relations Act, section 15).
- Shop stewards are entitled to a maximum of 15 days leave per annum to attend to union business or union training. (Transnet Recognition Agreement, 2007).

Legislated Minimums & Other Benchmarks

Shop stewards' rights

- Shop stewards are entitled during working hours to caucus for at least 1 hour immediately before any meeting with management.
- Shop stewards are entitled to meet with their members outside of normal working hours on company premises, provided they notify management. (Transnet Recognition Agreement, 2007).

More Benchmarks

Leave for trade union activities

- (1) An employee who is an office-bearer of a representative trade union, or of a federation of trade unions to which the representative trade union is affiliated, is entitled to take reasonable leave during working hours for the purpose of performing the functions of that office.
- (2) The representative trade union and the employer may agree to the number of days of leave, the number of days of paid leave and the conditions attached to any leave.



15. Training and Progression

Examples

Skills development

SETAs are obliged to develop skills in the workplace in service of their constituencies. Organised labour is a key constituent of the SETAs. In order to unlock this support, trade unions must approach SETAs or the National Skills Fund with coherent skills programmes.

Legislated Minimums & Other Benchmarks

Sector skills plan

A SETA must (b) implement its sector skills plan by:
(iii) allocating grants in the prescribed manner and in accordance with any prescribed standards and criteria to employers, education and skills development providers and workers. (Skills Development Act, Section 10(1b))

More Benchmarks

Skills programmes

(1) For the purposes of this chapter, a “skills programme” means a skills programme that:

- (a) is occupationally based;
- (b) when completed, will constitute a credit towards a qualification registered in terms of the National Qualifications Framework as defined in Section 1 of the South African Qualifications Authority Act;
- (c) uses training providers referred to in section 17(1)(c);
and
- (d) complies with any requirements that may be prescribed.

(2) Any person that has developed a skills programme may apply to:

- (a) a SETA with jurisdiction for a grant; or
- (b) the Director-General for a subsidy.

(Skills Development Act, Section 20)
