

South Africa

Fixed Term Contracts

Fixed-term contracts are permitted in South Africa, but they are scrutinized for abuse and may not be longer than three months in duration. If a fixed-term contract is extended beyond three months without a justifiable reason, the Worker may have a claim that the contract is indefinite (aka “permanent”). Also, if a Worker has a reasonable expectation of renewal and the contract is not renewed at the end of the term, they can claim that the expiration was a dismissal in which case it must be procedurally and substantively fair.

Probationary Periods

Probationary periods of reasonable length, typically not lasting longer than 3 months, are permitted for the limited purpose of testing the Worker’s work performance. Termination of an agreement during a probationary period may only be done if there have been set performance standards, monitoring of the work, communication regarding shortcomings, warnings, guidance where necessary, and an opportunity for the Worker to state their case. Notice is required for termination during a probationary period of the same length that would be provided during the non-probationary portion of the engagement.

Holidays

Workers in South Africa recognize 12 paid public holidays. A Worker must agree in writing in order to perform work on a public holiday and should be compensated with double pay.

Vacation

Workers are entitled to at least 21 consecutive days of paid vacation for every 12 months of employment. If agreed to in the employment contract, vacation can be accrued at a minimum of one day for every 17 days worked. Accrued but unused leave must be paid at termination.

Sick Leave

Workers with a five-day work week are entitled to 30 days of paid sick leave and workers with a 6-day work week are entitled to 36 days of paid sick leave in a 36-month period. During the first six months of employment, Workers are entitled to one day of paid sick leave for every 26 days worked. After that period, Workers are entitled to their full paid sick leave entitlement for the 36-month period. If a Worker exhausts their entitlement before the 36-month end of the cycle, any further sick leave will be unpaid leave.

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Working Hours

Working hours regulations apply to all workers except those who are senior managers, sales staff who travel, or workers who work less than 24 hours a month. The maximum working hours are 45 hours per week and nine hours per day if the workweek is five days long. If it is longer than five days, Workers must not work more than eight hours per day. Sundays are considered a day of rest. Workers are entitled to at least 1 hour of unpaid rest period when working more than five continuous hours. This rest period can be reduced to 30 minutes only if the worker agrees to it in writing. There must be 12 consecutive hours between the end and start period of daily work and at least 36 hours period of rest weekly which includes Sunday unless otherwise agreed upon by both parties.

Overtime

When working hours are regulated, overtime can only be worked by agreement and is limited to 10 hours per week and not more than 3 hours of overtime per day. It must be compensated at 150%.

Termination

Except in cases of misconduct or incapacity, Workers are entitled to fair cause and notice of termination. The amount of notice depends on the length of service as outlined, below: 0 – 6 months: one week; 6 months – 1 year: two weeks; 1+ years: four weeks. If the termination is for operational reasons only (aka “redundancy”), severance pay of at least one week’s remuneration for each completed year of service will be due so long as the Worker did not unreasonably refuse alternative employment.

Resignation

Workers must recognize the same notice periods outlined above in resigning. The employer can elect to pay the Worker in lieu of notice. If the employer requests the Worker continue to work the notice period and the Worker refuses, no compensation is due.

Mandatory Employer Costs

Unemployment Insurance Fund (UIF), Occupational Injuries and Diseases Act, Skills Development Levy (SDL).
Approximately 2.4%.