



THE DEPARTMENT OF LABOUR:

# INVESTORS' HANDBOOK

[WWW.LABOUR.GOV.ZA](http://WWW.LABOUR.GOV.ZA)



**labour**

---

Department:  
Labour  
REPUBLIC OF SOUTH AFRICA



THE DEPARTMENT OF LABOUR\*

# INVESTORS' HANDBOOK

[WWW.LABOUR.GOV.ZA](http://WWW.LABOUR.GOV.ZA)



**labour**

---

Department:  
Labour  
**REPUBLIC OF SOUTH AFRICA**



## FOREWORD

It is with great pride that the Department of Labour bring you this edition of the Department of Labour's guide for investors. South Africa has a number of characteristics that make it a compelling investment destination on the African continent. The Handbook provides investors with a broad overview of the social, regulatory and economic environment in which they can expect to operate, highlighting the key features and investment incentives that we believe make doing business in South Africa an attractive proposition.

It is hoped that this publication will serve as the single most comprehensive and authoritative source of information for investors, exporters and businesses arriving at our shores. Please contact us for further information and advisory support.

# TABLE OF CONTENTS

1. Compensation Fund
2. Unemployment Insurance Fund
3. Labour Policy and Industrial Relations
4. Public Employment Services
5. Inspection and Enforcement Services

## Disclaimer

Unless otherwise stated, the information in this Handbook is based on conditions that existed in February 2017. The authors accept no responsibility for any errors this guide may contain, whether caused by negligence or otherwise, or for any loss, however caused, sustained by any person that relies on the information herein. While all attempts have been made to provide up-to-date statistics and other details, this Handbook is not exhaustive and readers are advised to consult with their advisors and/or the relevant government agency.



## WHY INVEST IN SOUTH AFRICA?


South Africa is one of the most sophisticated, diverse and promising emerging markets globally. Strategically located at the tip of the African continent, South Africa is a key investment location, both for the market opportunities that lie within its borders and as a gateway to the rest of the continent, a market of approximately one billion people.

South Africa is the economic powerhouse of Africa and forms part of the BRICS group of countries with Brazil, Russia, India and China. It has a favourable demographic and its rapidly expanding middle class has growing spending power.

South Africa has a wealth of natural resources (including coal, platinum, gold, iron ore, manganese nickel, uranium and chromium) and it has been enjoying increased attention from international exploration companies, particularly in the oil and gas sector. In agriculture and agro-processing, South Africa is recognised as a leader in the region.

It has world-class infrastructure, exciting innovation, research and development capabilities and an established manufacturing base. South Africa has a strong tertiary education sector that ensures the availability of highly skilled graduates, and it is at the forefront of the development and roll-out of new green technologies and industries, creating new and sustainable jobs in the process and reducing environmental impact. South Africa has sophisticated financial, legal and telecommunications sectors, and a number of global business process outsourcing (BPO) operations are located in the country.

It has political and macroeconomic stability, an abundant supply of semi-skilled and unskilled labour, and compares favourably to other emerging markets in terms of the overall cost of doing business. For both professional and manufacturing jobs,



labour costs have also historically been very competitive and less costly than that of European countries.

The South African Government has introduced wide-ranging legislation to promote training and skills development and fast-track the building of world-class skills and competences. One of the main reasons for South Africa becoming one of the most popular trade and investment destinations in the world is due to the country ensuring that it can meet the specific trade and investment requirements of prospective investors.

South Africa has a host of investment incentives and industrial financing interventions that are aimed at encouraging commercial activity and its trade rules favour a further expansion in South Africa's burgeoning levels of international trade. The special International Headquarter Company (IHQ) regime makes South Africa an attractive location for multinational companies wanting to invest into Africa.

South Africa is serviced by a multitude of international airlines, with good flight connections into the rest of the continent, and its unrivalled scenic beauty and reputation for delivering value-for-money, make it an attractive leisure and business travel destination.

# COMPENSATION FUND



0860 105 350



# COMPENSATION FUND

To provide for compensation for disablement caused by occupational injuries or diseases sustained or contracted by employees in the course of their employment, or for death resulting from such injuries or diseases; and to provide for matters connected therewith.

## REGISTRATION WITH COMMISSIONER (SECTION 80)

An employer must register with the Commissioner within seven days from the date on which the first employee is employed.

A Registration Form (W.As. 2) must be completed, and the CK document and ID copies of the owner should be mailed to the Office of the Compensation Commissioner.

## EMPLOYER TO KEEP RECORD (SECTION 81)

Register and keep prescribed particulars of all employees for a period of at least four years.

## EMPLOYER TO FURNISH RETURN OF EARNINGS (SECTION 82)

These returns must be received back by the Commissioner on or before 31 March of each year.

## UNDERSTATEMENT OF EARNINGS

If an employer understates earnings, the Director-General may impose upon and recover from the employer a fine not exceeding 10% of the difference between the amount shown and the actual amount.

### **WHO MUST REGISTER?**

All persons who employ one or more employees, in connection with their business or farming activities.

### **REGISTRATION OF AN EMPLOYER**

An employer should register with the Compensation Commissioner as soon as possible after the date on which the first employee is employed but not later than seven days thereafter.

### **RECORD KEEPING OF EMPLOYEE'S EARNINGS**

In terms of this Act employers are compelled to keep record of their employees' earnings for a period of at least four years. These records should be available at all times for inspection by an authorised person.





# UNEMPLOYMENT INSURANCE FUND



# UNEMPLOYMENT INSURANCE FUND (UIF)

To contribute to the alleviation of poverty in South Africa by providing effective short-term unemployment insurance to all workers who qualify for unemployment insurance and other related benefits

## REGISTRATION WITH THE COMMISSIONER (UNEMPLOYMENT INSURANCE ACT, SECTION 56 (1))

A company must, as soon as it commences activities as an employer, register with the Fund.

An employer registration form (UI8) must be completed and submitted with the relevant company registration certificate, obtained from the Company and Intellectual Property Commission (CIPC), in cases where the employer is registered with CIPC, information regarding its employees (UI19) must be completed and submitted to the Unemployment Insurance Commissioner.

If the employer does not reside in the Republic, or is a body corporate not registered in the Republic, include the particulars of the authorised person who is required to carry out the duties of the employer in terms of Section 56 of the Act.

An employer employing a domestic worker for more than 24 hours in a month must also register by completing a UI 8 D and UI 19 form. A UI 54 form is posted to the employer to confirm the successful registration of an employer.

## WHO MUST REGISTER

All employers, as well as their employees are obliged to register and contribute to the UIF. However, an employee is excluded from contributing to the UIF if:

- Employed by the employer for less than 24 hours a month
- Receives remuneration under a contract of employment as contemplated in Section 18(2) of the Skills Development Act, 1998 (Act No.97 of 1998)
- Employed as an officer or employee in the national or provincial sphere of Government

- Entered the Republic for the purpose of carrying out a contract of service, apprenticeship or learnership within the Republic. If upon termination, the employer is required by law or by the contract of service, apprenticeship or learnership, or by any other agreement or undertaking, to send home that person, or if that person needs to leave the Republic
- The President, Deputy President, a Minister, Deputy Minister, a member of the National Assembly, a permanent delegate to the National Council of Provinces, a Premier, a member of an Executive Council or a member of a provincial legislature
- A member of a municipal council, a traditional leader, a member of a provincial House of Traditional Leaders and a member of the Council of Traditional Leaders.

## **REGISTRATIONS TURN AROUND TIMES**

One of the values of the UIF is that, we will strive to achieve total customer satisfaction by providing excellent and world class service to our stakeholders. The Fund has therefore committed to finalise 100% of registrations within two working days and provide compliance certificates to deserving employers within seven working days.

Registration forms can be submitted at any Department of Labour office, or posted to: P.O. Box 1851, Pretoria, 0001, or emailed to [new.ui8registration@labour.gov.za](mailto:new.ui8registration@labour.gov.za). The Department has footprints in all major cities.

## **EMPLOYER TO FURNISH CHANGES TO REGISTRATION INFORMATION (UI ACT SECTION 56(3))**

Every employer is obliged, before the seventh day of each month to inform the UIF Commissioner of any changes that might have taken place during the previous month regarding the employment status and employment conditions of its employees.

The Fund has an electronic declaration submission process and information can be viewed on the website at [www.ufiling.co.za](http://www.ufiling.co.za)

### **EMPLOYER TO CONTRIBUTE BASED ON EARNINGS (UI CONTRIBUTIONS ACT SEC 6, 8)**

Every employer shall contribute 2% of earnings at the end of each month to the Unemployment Insurance Fund.

### **UNDERSTATEMENT OF EARNINGS BASED CONTRIBUTIONS (UI CONTRIBUTIONS ACT SEC 8, 12, 13)**

If the employer understates the earnings of employees and as a result contributes 2% based on the understated earnings, the Director-General may impose upon and recover from an employer a penalty not exceeding 10% and penalties and interest calculated at the prescribed rate.

### **APPLICATION FOR COMPLIANCE CERTIFICATE (UI56) OR LETTER OF GOOD STANDING (UI 50)**

The UIF compliance certificate (UI56) is issued to employers who have employees, and it serves as confirmation that the employer was complying with all the UIF requirements at the date of issuing the certificate. The certificate is valid for a period of twelve months from the date of issue.

To obtain the compliance certificate please send your application to [compliance@uif.gov.za](mailto:compliance@uif.gov.za) on the completed prescribed form. For SARS employers (i.e. employers paying UIF contributions through SARS), the application must be accompanied by a valid SARS Tax Clearance Certificate.

The letter of good standing (UI50) is issued to applicants who do not have employees. The certificate is also valid for a period of twelve months and the application process is the same as in the application for UI56.



**FOR FURTHER INQUIRIES, CALL  
(012) 337 1680**

# LABOUR POLICY AND INDUSTRIAL RELATIONS





# LABOUR POLICY AND INDUSTRIAL RELATIONS

## LABOUR RELATIONS ACT, 1995 (AS AMENDED)

The Labour Relations Act (LRA) Act 66 of 1995 aims to promote economic development social justice, labour peace and democracy in the workplace. It sets out to achieve this by providing a framework for regulating the relationship between employers and their unions on the one hand, and employers and their organisations on the other hand. At the same time, it also encourages employers and employees to regulate relations between themselves.

The LRA promotes the right to fair labour practices, to form and join trade unions and employer organisations, to organise and bargain collectively and to strike and lock-out.

The Act favours conciliation and negotiation as a way of settling labour disputes. It expects parties to make a genuine attempt to settle disputes through conciliation before going on to the next step, which could be arbitration, adjudication or industrial action.

### WHO IS COVERED BY THE LRA?

Almost every employee and employer is covered by the Act. People who are considered to be genuine “independent contractors” are not employees and they are thus not protected by the LRA.

The LRA also does not apply to members of the National Defence Force, the National Intelligence Agency and the South African Secret Service.

### BARGAINING COUNCILS

Bargaining Councils are established in terms of the Labour Relations Act (no 66 of 1995) to conclude collective agreements affecting conditions of employment within their area of scope. They are established when employer organisations and one or more trade unions agree to come together to engage in collective bargaining within a particular industrial sector and geographical area.

**There are currently 44 registered bargaining councils in South Africa, consisting of:**

- 38 private sector bargaining councils,
- 6 local and national government and bargaining councils.

## **THE ROLE OF BARGAINING COUNCILS**

The role of bargaining councils is to conclude collective agreements which prescribe minimum wages and social benefits for a sector. Collective agreements concluded by bargaining councils can be extended to non-parties when certain criteria are met as specified in Section 32 of the LRA.

As bargaining councils are empowered to deal with disputes arising within their area of operation, councils are accredited by the Commission for Conciliation Mediation and Arbitration (CCMA) to perform their dispute resolution functions (Section 52 of the LRA).

## **SERVICES OF BARGAINING COUNCILS**

Bargaining Councils vary in the number of persons that they employ and in the range of services provided. Most councils would:

- Administer and enforce agreements, including employing agents to undertake enforcement activity
- Administer funds, for example, leave, sick and holiday funds
- Conduct dispute resolution activities.

## **FURTHER INFORMATION**

A full list of bargaining councils with their contact details is available on the website at [www.labour.gov.za](http://www.labour.gov.za).

## **THE COMMISSION FOR CONCILIATION MEDIATION AND ARBITRATION (CCMA)**

The CCMA is an independent body established by the LRA which has an office in each province of the country and a national office in Johannesburg. The CCMA employs both full-time and part-time commissioners who perform conciliation and arbitration functions.

### THE MAIN FUNCTIONS OF THE CCMA ARE AS FOLLOWS:

- i. To resolve disputes through conciliation and/or arbitration
- ii. To give advice, assistance and training to parties on a range of issues, including advice on dispute resolution and collective bargaining processes
- iii. To accredit bargaining councils and private agencies to conciliate and arbitrate on certain disputes.



#### FURTHER INFORMATION

Further information on the CCMA and its contact details are available at [www.ccma.org.za](http://www.ccma.org.za).

# PUBLIC EMPLOYMENT SERVICES (PES)



# PUBLIC EMPLOYMENT SERVICES

## INTERNATIONAL/CROSS-BORDER LABOUR MIGRATION (ICBLM) MANAGEMENT

### 1. PROBLEM STATEMENT

The Department of Labour regulates the South African labour market; it needs to enforce labour law compliance by all employers who place/employ foreign labour in their companies.

### 2. WHICH ACTS REGULATE THE EMPLOYMENT OF FOREIGN WORKERS?

Immigration Act, as amended (No 13 of 2002) and Employment Services Act (No 4 of 2014- Section 8 and 9).

### 3. WHY DOES THE DEPARTMENT OF LABOUR GET INVOLVED IN THE WORK VISA SYSTEM?

- 1.3.1 The Department of Labour is the custodian of labour legislation in the country
- 1.3.2 The Department of Labour has a database which registers work-seekers and match them to opportunities as well facilitate the entry of work-seekers to the labour market
- 1.3.3 The client employer must register the employment opportunity with the Department of Labour by completing an “Opportunity Registration Form” provided by the Department (this service is also available online). Visit [www.labour.gov.za](http://www.labour.gov.za) and click on ESSA.

### 4. WHAT TYPE OF WORK VISA DOES THE DEPARTMENT OF LABOUR ADJUDICATE AND MAKE RECOMMENDATIONS ON?

The Department of labour mainly adjudicates and make recommendations on types of temporary work visas and a permanent visa, namely:

- General Work Visa: used for recruiting labour migrants individually
- Corporate Visa: used for recruiting labour migrants in groups, e.g. general farm workers for the farming industry or general labourers in the construction industry
- Permanent Residence Permit: Only when the reason for applying is to accept a permanent offer of employment by a labour migrant who is in possession of a valid work permit

- Business Visa: S(15) Regulation 14(3)(c): The Department of Labour to confirm that an enterprise issued with a business visa has 60% of total staff complement as South Africans or permanent residents.

## **5. WHY SHOULD EMPLOYMENT PREFERENCE BE GIVEN TO SOUTH AFRICAN CITIZENS?**

To protect vulnerable SA citizens against unfair competition for employment opportunities with foreign nationals with similar or no skills. Employment of a foreign worker should not compromise the South African citizen's opportunity to access similar employment.

## **6. UNDER WHAT CIRCUMSTANCES IS A WORK VISA (GENERAL OR CORPORATE) RECOMMENDED POSITIVELY TO RECRUIT FOREIGNERS?**

Only when all recruitment avenues: advertisements in national news papers, the Department of Labour work-seeker database (Employment System of South Africa), private employment agencies, and professional organisations have been exhausted, and assurance gained that there are no South Africans with the required skills.

## **7. ARE MIGRANT WORKERS ENTITLED TO SAME EMPLOYMENT CONDITIONS AS SA CITIZENS?**

Yes. All workers regardless of their migrant status are entitled to the same employment conditions.

## **8. WHERE SHOULD THE EMPLOYERS APPLY FOR WORK VISAS?**

The employer submits a complete work visa application to the provincial office/labour centre of the Department of Labour with all required support documentation attached. Work visa application forms and procedures are obtainable from the Department of Labour's website at [www.labour.gov.za](http://www.labour.gov.za).

## **9. FOR HOW LONG MUST I WAIT BEFORE RECEIVING MY PERMIT APPLICATION RESPONSE?**

A response for each application should reach you within 30 working days from day of application.

## EMPLOYMENT AND PLACEMENT OPPORTUNITIES REGISTRATION

### To Meet your suitable candidate: Try us

- Free services offered to employers, training institutions, cooperatives and schemes
- Register vacancies, training opportunities and employment schemes
- Provide qualifications, requirements and criteria
- We will profile, match and refer prospective candidates to you.

## REGISTRATION OF PRIVATE EMPLOYMENT AGENCIES

Any person (natural or juristic) wishing to provide employment services must apply for registration at the Department of Labour as a private employment agency (including temporary employment services).

A fully completed application form (obtainable on the Departmental website at [www.labour.gov.za](http://www.labour.gov.za)) should be submitted to any nearest Department of Labour office. The following compulsory documents should be attached to the application form:

- Proof of registration at the CIPC (old CIPRO) in terms of the Companies Act
- Original tax clearance certificate from the South African Revenue Service (SARS)
- Letters of good standing from both the Unemployment Insurance Fund (UIF) and the Compensation Fund (CF)
- Proof of physical address in terms of FICA.

A certificate of registration or a letter containing reasons notifying the applicant that it has not been granted registration will be issued within 60 calendar days.



### FOR MORE INFORMATION

Visit [www.Labour.gov.za/](http://www.Labour.gov.za/) email to [pes@labour.gov.za](mailto:pes@labour.gov.za)

# INSPECTION AND ENFORCEMENT SERVICES





# INSPECTION AND ENFORCEMENT SERVICES

The purpose of the Inspectorate is to assist with and help with realising decent work by regulating both non-employment and employment conditions through labour inspections so as to achieve compliance with acceptable labour market policies.

## THE INSPECTORATE STRIVES FOR:

- Promotion of occupational health and safety in the workplace by regulating dangerous activities and use of plant and machinery
- Registration of incidents and labour complaints and thereafter communicate with relevant statutory entities and bodies for investigation and finalisation
- Commitment, by stakeholders, to comply with laws and regulations in the affected sectors
- Follow-up, through advocacy and training sessions, where there is a need either determined by labour inspectors or employer(s).

## LEGISLATIVE MANDATE

The Inspection and Enforcement Services is premised on promotion of social justice, giving effect to the obligations of South Africa as a member state of the International Labour Organisation and above all giving effect to the Constitutional mandate of the Republic as outlined below:

## CONSTITUTIONAL AND LEGISLATIVE MANDATE

The Inspection and enforcement Services (within the Department of Labour) legislative mandate is informed by Chapter 2 (The Bill of Rights) of the South African Constitution:

- Section 9 - To ensure equal access to opportunities
- Section 10 - To promote labour standards and fundamental rights at work
- Section 18 - Freedom of association
- Section 23 - To ensure sound labour relations
- Section 24 - To ensure that the environment is not harmful to the health and wellbeing of those in the workplace
- Section 27 - To provide adequate social security nets to protect vulnerable workers

- Section 28 - To ensure that children are protected from explorative labour practices and are not required or permitted to perform work or services that are inappropriate for a person of that child's age or their well being, education, physical, mental, spiritual, moral or social development is placed at risk
- Section 34 - Access to courts and access to fair and speedy labour justice.

## **NDP STRATEGIC OUTCOME ORIENTATED GOALS OF THE DEPARTMENT OF LABOUR AS IMPACTING ON INSPECTION AND ENFORCEMENT SERVICES (IES)**

**Outcome 4: Improve the quality of labour market services to contribute to decent employment through inclusive economic growth**

### **Department of Labour goal statements:**

1. Contribute to decent employment creation
2. Protect vulnerable workers
5. Strengthen occupational safety protection
6. Promote sound labour relations
7. Monitor the impact of legislation.

## **LABOUR INSPECTORATE**

The Inspection and Enforcement Branch: Department of Labour has different competencies constituting the labour inspectorate. They are:

- Occupational Health and Safety
- Employer Audit (responsible for workplace audit on Unemployment Insurance Fund and Compensation Fund)
- Employment Equity
- Basic Conditions of Employment.

The Inspectorate is responsible for inspections, investigations and advocating all labour law and enforcing against non-compliance.

## **LABOUR INSPECTIONS**

In line with the Act on Trafficking In Persons (TIP) and to provide effective enforcement measures:

- Labour inspections will focus on sectors that are highly likely to experience TIP violations like agriculture and construction so as to identify instances, for instance, of forced labour upon vulnerable persons like children or adult workers, especially women

- The inspectorate will compile a report, to be shared with DJ and CD and other relevant stakeholders
- The Labour Inspectorate will also cooperate with relevant stakeholders in referring victims of TIP for professional assistance
- Joint BCEA/TIF contraventions will be escalated, together with and in partnership with government stakeholders such as the Departments of Social Development and Home Affairs for prosecution.

### **TARGET TO BE ACHIEVED IN INDUSTRY WORKPLACES TO BE INSPECTED**

- Worst employers to be sampled for targeted enforcement and compliance and/or successful prosecution
- Use the media to name and shame.

### **STAKEHOLDER INVOLVEMENT**

- The Department of Labour will hold briefing sessions e.g. breakfast talks with key stakeholders and industry leaders in the identified sectors on the planned inspections and outcomes thereof
- Analysis reports to be tabled at TIP intersectoral committee meetings.

### **ADVOCACY AND MEDIA CAMPAIGNS**

- Unannounced labour inspections will be promoted
- Joint intergovernmental labour inspections to be profiled with media campaigns, including distribution of pamphlets and checklists
- The outcome of inspections and prosecutions will be communicated publicly at TIP intersectoral committee sessions.



## WHERE TO FIND US

### **LABOUR HEAD OFFICE**

Telephone Numbers: (012) 309 4000

Fax Numbers: (012) 320 2059

[www.labour.gov.za](http://www.labour.gov.za)

### **GAUTENG PROVINCIAL OFFICE**

Telephone Numbers: (011) 853 0300

Fax Numbers: (011) 853 0470

### **NORTH WEST PROVINCIAL OFFICE**

Telephone Numbers: (018) 387 8100

Fax Numbers: (018) 384 2745

### **NORTHERN CAPE PROVINCIAL OFFICE**

Telephone Numbers: (053) 838 1500

Fax Numbers: (053) 832 4798

### **LIMPOPO PROVINCIAL OFFICE**

Telephone Numbers: (015) 290 1744

Fax Numbers: (015) 290 1608

### **MPUMALANGA PROVINCIAL OFFICE**

Telephone Numbers: (013) 655 8700

Fax Numbers: (013) 690 2622

### **KWAZULU-NATAL PROVINCIAL OFFICE**

Telephone Numbers: (031) 366 2000

Fax Numbers: (031) 366 2300

### **FREE STATE PROVINCIAL OFFICE**

Telephone Numbers: (051) 505 6200

Fax Numbers: (051) 447 9353

### **WESTERN CAPE PROVINCIAL OFFICE**

Telephone Number(s): (021) 441 8000

Fax Numbers: (021) 441 8135

### **EASTERN CAPE PROVINCIAL OFFICE**

Telephone Numbers: (043) 701 3128

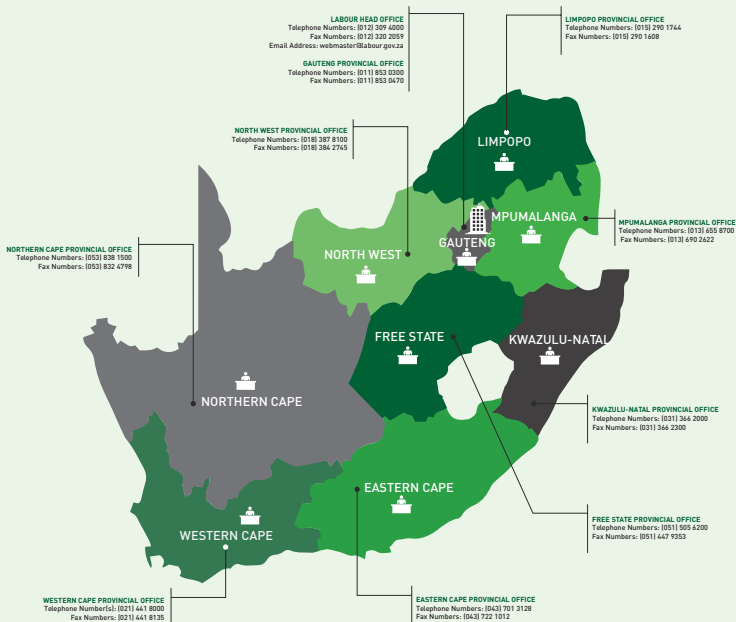
Fax Numbers: (043) 722 1012



LABOUR HEAD OFFICE



LABOUR PROVINCIAL OFFICE



## CONTACT THE DEPARTMENT OF LABOUR

For updated Contact Details and addresses of Head Office, Provincial Offices and Labour Centres please visit our website: [www.labour.gov.za](http://www.labour.gov.za)

Scan the QR code provided with your phone, to gain direct access to the contact details page on the Department of Labour's website.







DEPARTMENT OF LABOUR  
**WORKING FOR YOU**



**labour**

Department:  
Labour  
**REPUBLIC OF SOUTH AFRICA**

