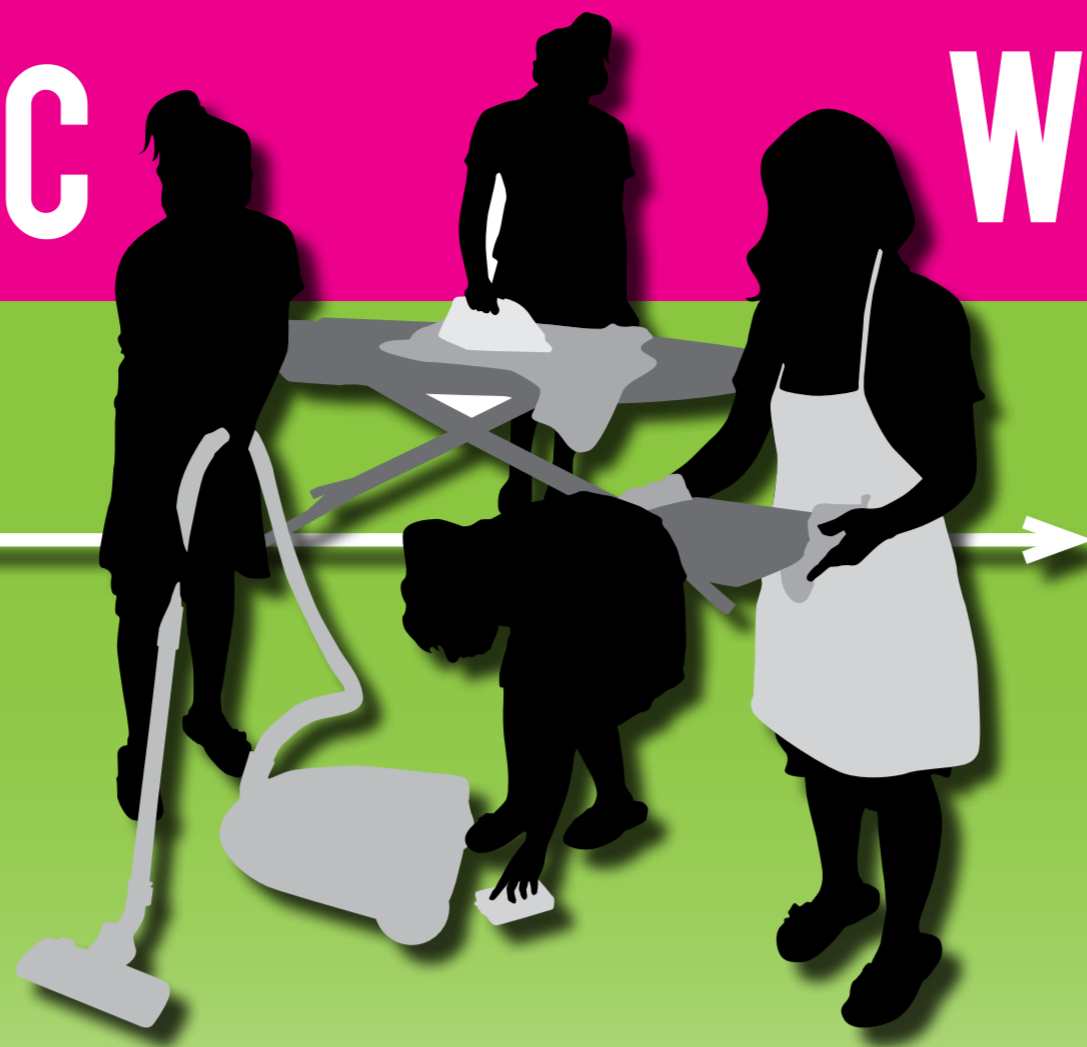


DOMESTIC

WORKERS

HOW



the Law can help you

SCENARIO 1



You are employed by a labour broker who places you in the house of Mrs Smith on a three month contract. You are paid the minimum amount set out in the Sectoral Determination. You do your work well and there are no major problems between you and the owner of the house, Mrs Smith, who supervises your work. The three months end and you expect the contract to end and to be sent somewhere else by the labour broker to work. But nothing happens. A year goes by with nothing said. You continue to work in Mrs Smith's house and your wage continues to be paid by the labour broking company. One day you raise it with Mrs Smith because you would like to carry on working for her on a full-time permanent basis. She says nothing. You are very surprised a few days later to find yourself withdrawn from Mrs Smith's house and sent to work in the house of Anne Fourie.



This is a difficult case. Once the new amendments to the LRA come into effect, the law will say that after three months of employment, if you continue to be employed, you will in fact be employed by the person in whose house you are working. So in this case, after three months, your employer is no longer the labour broker but Mrs Smith. But until these new laws come into place, you have very little help from the law for this case.

Relevant law:

- Labour Relations Act 1995 Amendments Bill

SECTION 198A OF THE PROPOSED AMENDMENTS TO THE LABOUR RELATIONS ACT OF 1995 SAYS:

If the worker works for longer than three months at one place, then the client will now be regarded as their employer, not the labour broker or agency.

SCENARIO 2



You start a new job with Mr Kgoro. He pays less than the minimum set out in the Sectoral Determination, you work very long hours and are not given any sick leave.



Sectoral Determination sets out the minimum working conditions that apply to domestic workers.

If your wages or conditions at the workplace are worse than those laid out in the sectoral determination, then you can refer your case to the CCMA (Commission for Conciliation, Mediation and Arbitration).

Relevant legislation:

- Sectoral Determination 7
- Labour Relations Act of 1995

SECTORAL DETERMINATION 7 SAYS:**Wages**

There are different wages for workers in area A and area B. Area A is mainly the metropolitan and more urban municipalities. The Determination sets different rates depending on whether you earn an hourly, weekly or a monthly rate. Each year the Determination is updated.

Hours

The employer cannot make you work more than 45 hours in any week, 9 hours in any day if you work for five days or less in a week, and 8 hours if you work on more than five days in a week.

Sick leave

In a sick leave cycle of 36 months (3 years) you are allowed the same amount of paid sick leave days as there are days in a six week period.

Labour Relations Act says:

If there is a dispute about an issue, the domestic worker can refer it to the CCMA. The correct procedures for referral must be followed

SCENARIO 3



Thembi works as a char. She works for 2 days for Ms Nicol, 1 day for Mr Anderson and 2 days for Ms Stephens. None of her employers have registered her for UIF. She knows that if she loses her job with one of her employers, she can claim some Unemployment Insurance Fund Benefits even though she continues to work in her other jobs on the other days.



It is the employer's responsibility to deduct 1% from the wages of a domestic worker. This 1% plus 1% paid by the employer must be paid to the UIF on a monthly basis by the employer.

Relevant Legislation:

- The Unemployment Insurance Act

UNEMPLOYMENT INSURANCE ACT

This was extended to domestic workers in 2003. This Act says that 1% of workers wages must be deducted and sent to the UIF, and employers must also contribute the equivalent of 1% of what they pay workers to the UIF.

A worker can claim UIF:

- If they are unemployed
- If they are ill and unable to work
- If they are having a baby
- If they are adopting a baby/child
- If their dependants are claiming benefits when they claim maternity leave.

