

EXPLANATORY NOTES

Purpose of contract

This easy-to-use contract is designed to help farmers to understand and apply the conditions of employment that apply in respect of farm workers. It concentrates on that which is essential and avoids unnecessary legal technicalities.

Definition of “farm worker”

The Sectoral Determination for the Farm Worker Sector applies to all farming activities in the Republic of South Africa, including primary and secondary agriculture, mixed farming, horticulture, aqua farming and the farming of animal products or field crops. It includes not only workers that are involved with farming activities, but also a farm worker in a home on a farm and a security guard employed to guard a farm. It does not include a person who is employed in activities covered by another Sectoral determination or bargaining council agreement. A person must be at least 15 years of age to be employed as a farm worker, but until such person reaches the age of 18 he/she may not work more than 35 hours per week.

Parts of this contract

The contract covers the provisions which, according to the Sectoral Determination for the Farm Worker Sector, must be included in the written particulars of employment. There are three parts to this contract. **Part A** must be completed with all the particulars of employment. **Part B** must only be completed if the farm worker is given accommodation. **Part C** deals with other, general provisions.

Scope of the contract

The contract does not cover everything that you need to know about employment law that applies to farm workers. The contract only covers that which was considered to be generally applicable. As such, only essential information has been included in the contract and some technical details have been omitted. If you feel that the framework of the contract does not meet your particular requirements, it would be best to seek professional advice.

Minimum wage

There is a minimum wage that applies in respect of farm workers. In this regard one needs to consult the Sectoral Determination to ascertain what applies to you.

Deductions

The Sectoral Determination contains very important provisions regarding deductions for accommodation and food. A deduction may only be made provided that certain conditions are met and in both instances the deduction may not exceed 10% of the worker's wages. There is a limited number of other matters in respect of which deductions may also be made - See section 8 of the Sectoral Determination.

Pension, Provident and Funeral Benefits

There is no obligation upon an employer to make provision for Pension, Provident or Funeral Benefits in respect of a farm worker. There are, however, organizations that provide such cover. For further details, call JHG PERSONNEL PRACTITIONERS at 021-919-7635.

Important points to bear in mind

The following should be borne in mind:

- (a) Every time a farm worker is paid certain information must be given to the farm worker. Furthermore, a record of certain information must be kept for at least 3 years. A ***Time and Wages Record*** form is included to serve both these purposes. Give the farm worker one copy and keep the other for record purposes.
- (b) It is a requirement that the employer and farm worker each has to make a contribution of 1% of the farm worker's earnings to the Unemployment Insurance Fund (UIF). More information can be obtained from your local office of the Department of Labour. The call centre number is 012-337-1680 or see www.uif.gov.za.
- (c) If an employer contemplates dismissing a farm worker, certain guidelines as set out in the Labour Relations Act, must be followed. If you are unsure about these, you should seek professional advice.

- (d) Should your farm worker's services be terminated for whatever reason, he/she would be entitled to leave pay. For the calculation of this amount, it would be advisable to contact your local office of the Department of Labour. There are also some important provisions regarding the farm worker's right to accommodation, livestock and standing crops on the land of the employer – see section 28 of the Sectoral Determination.
- (e) If your farm worker's employment is terminated, he/she may ask for a certificate of service. An example of a **Certificate of Service** is included.
- (f) Keep the Employment Contract for at least 3 years after the termination of employment.
- (g) A copy of the Sectoral Determination must be kept at the workplace in a place to which the farm worker has access.

Note: Although the utmost care has been taken to cover all the most important aspects of the applicable law, the authors cannot be held liable for any act or omission on the part of the user of this contract in respect of any matter which is included in or omitted from the contract and these notes.