

P92/Box 16

# MASISEBENZISANE

---

## LET US WORK TOGETHER



Penelope Geerds





# **MASISEBENZISANE**

---

## **LET US WORK TOGETHER**

Penelope Geerds

1991

The Black Sash



The Black Sash, 294 Schoeman Street, Pretoria 0002.

Copyright © 1991, The Black Sash

This is a teaching book and the Black Sash hopes that many people will have the chance to read and study it. For this reason any one can make copies of it, or quote from it, or translate it into other languages without asking permission. We only ask you to acknowledge the source, and to make sure that any translation made is accurate and does not change the meaning of what is written.

Typography: Maria Criticos

Illustration © Copyright: Dina Cormick

Printed by Creda Press (Natal)

ISBN 0-9583106-4-5

---

# CONTENTS

Preface	4	The Use of Facilities	19
Introduction	5	Work Relationships	19
Who is a paid Domestic Worker?	6	Personal Information 20	
Do paid Domestic Workers have to be registered? 7		Leaving the place of employment, Dismissal	20
Agreement/Contract of Employment	7	Discipline 20 Grounds for Dismissal 20 Giving Notice 21	
Suggested Checklist for the Contents of an Agreement/Contract 9		Notice Period 21 Payment when a Worker Leaves 21	
Definition and Allocation of Tasks	10	Certificate of Service 22	
Wages	11	Laws relating to Working Conditions	23
Hours of Work	13	Disputes	23
Overtime	13	The Small Claims Court 23 The Magistrate's Court 24	
Leave	14	Trade Unions	24
Holiday Leave 14 Sick Leave 15		Other Domestic Worker Organisations 25	
Some General Questions about Health and Safety 15		Employer Organisation 25 Para-legal, Legal Bodies 25	
Maternity Benefits 16 Paternity Leave 16		Problems facing paid Domestic Workers	26
Calendar setting out working conditions	17	Paid Domestic Workers as Parents 26 Social Activities 26	
Accommodation	17	Violence and Abuse 27 Preparing for Old Age 28	
Meals	18	Pensions 28 Pension Schemes 29	
Transport	18	Other Forms of Investment 29	
Clothing	18	Investment in Housing, Property 30	
		Placement of paid Domestic Workers	30
		Courses, Training and Development	31
		Conclusion	31
		Resources	32

---

## PREFACE

This booklet is for you, the reader, as a paid DOMESTIC WORKER or as an EMPLOYER.

Paid domestic work occurs throughout South Africa. The Black Sash realised that there are, however, many people who are involved in the work, either as workers or as employers, who do not know what their rights are or how to solve problems that they may be having in the working relationship. We decided to write a booklet to look at issues relating to paid domestic work; to educate people about their rights, and to give ideas on how to address the problems. We also felt that workers and employers need to work together, each playing her or his part, to make the relationship a beneficial one for both sides. That is why the booklet is called MASISEBENZISANE / LET US WORK TOGETHER.

This work is a combined effort of many people within the Black Sash, and I would like to thank them for their contributions and support. Magazine and newspaper articles, books, pamphlets, case studies from our Advice Offices, and discussions with organisations and individuals were used to gain the information.

This is an ongoing piece of work. Laws covering paid domestic workers are likely to be introduced in the near future, so many of the matters mentioned here may change. But we do not know how soon this will happen. We also feel that certain issues will remain important.

Whether you are a worker or an employer we hope that you will enjoy reading this booklet, that you will learn from it, and that it will help you in your working relationship. The choices you want to make are up to you.

*Penelope Geerds*

# INTRODUCTION

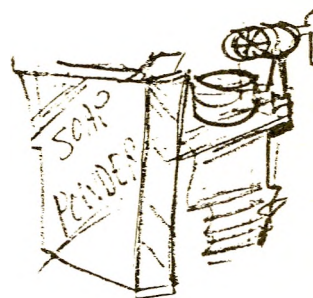
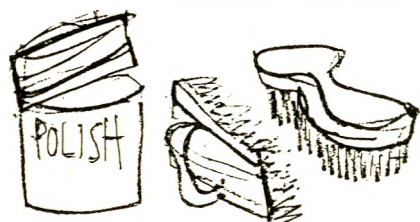
**Many workers in South Africa are paid domestic workers, but they experience difficulties in South African society.**

- Paid domestic workers are often badly and unfairly treated because they are black, they are poor, and many of them are women.
- They have no political rights, and up to now there have been no labour laws protecting their rights in the workplace. They are only protected by common law.\*
- Apartheid has made them feel inferior and unimportant.
- People do not consider domestic work as valuable work: its importance is not understood.
- Workers suffer hardship and poverty; wages are low and working hours are long. The work can be dull and tiring, and there is little satisfaction or self fulfillment. Some workers work twice - at an employer's in the day and in their own homes at night.
- Their jobs are not secure. A worker can be asked to leave work at any time without having much protection from the law.
- Many workers have no choice but to do domestic work. They may have taken on the work because of restrictions placed on them by the pass laws. Some have no formal education and are not trained for any other skill except the work they have learned in their own homes. They have little chance of finding better work and often remain in low paid positions year after year.
- Employers sometimes take advantage of workers who have no means of finding another job, and that lots of other people need work and are available to take on the job. They know that workers are therefore dependent on them for their wage and, in the case of live-in workers, for accommodation and food.

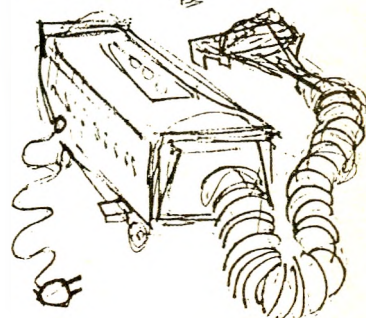
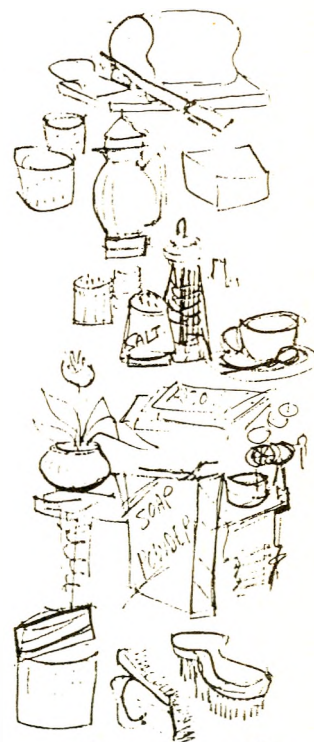
**Employers are also faced with difficulties.**

- The working relationship is not easy, either because it is very close or because some employers do not see a worker and there is no personal contact at all.
- Employers often do not know the common law rights of workers. They do not know how to deal with disputes or how to be reasonable and skilled employers.

**Workers and employers need to understand each other and the difficulties that they face, and work together to make the relationship a satisfactory one for both sides.**



*\* Common law is a set of rules not made by parliament. It comes from old Roman Dutch and English law. It has been developed by the decisions of judges. The common law rights of workers will be explained in this booklet.*





## WHO IS A PAID DOMESTIC WORKER?

Industrial workers are protected under labour legislation, for example:

- under the Workmen's Compensation Act compensation can be claimed for injury or death sustained while working
- under the Unemployment Insurance Act unemployment benefits can be claimed
- under the Basic Conditions of Employment Act minimum conditions of employment are set down which employers must follow

Paid domestic workers are at present excluded from the provisions of labour laws. It is therefore important that a worker is correctly classified as a "domestic worker" as it will determine whether or not she or he can claim benefits under certain acts.

### ■ A PAID DOMESTIC WORKER:

Works hourly, part-time or full-time on a permanent or casual basis

AND

Works for one employer or for different employers on different days of the week

AND

Works in domestic service as a maid, a nanny, a cook, a cleaner, a housekeeper, a char, a helper, a gardener or a driver

AND

Works in a private household,  
in an employer's house or on an employer's premises

A worker who works as part of an employer's business (for example, for a body corporate) is NOT a paid domestic worker and may fall under labour legislation.



## ■ DO DOMESTIC WORKERS HAVE TO BE REGISTERED?

Paid domestic workers no longer have to be registered. Workers from the Republic of South Africa (including from “states” or “independent homelands”) can work in the country without special documents. Some workers from outside of South Africa (for example, from Lesotho, Swaziland, Botswana, Zimbabwe, Mozambique and Malawi) qualify to work here. Others need to have work permits. If there are any questions about this, it is best that the Department of Home Affairs and the Department of Manpower be contacted.

## AGREEMENT/CONTRACT OF EMPLOYMENT

Workers and employers both have rights and both have duties.

In paid domestic work there is no specific law setting out these rights and duties. But there is always an agreement between a worker and an employer, either VERBAL (in words) or IN WRITING.

Once an employer has offered a worker a job and a worker has accepted the job, and if no papers have been signed, they have made a VERBAL AGREEMENT. Both of them must by law carry out the agreement. But if nothing has been written down it is hard to prove exactly what has been agreed to.

Some employers and domestic workers prefer to have a WRITTEN AGREEMENT or CONTRACT setting out everything that has been decided between them regarding the conditions of service.\*

Disputes and misunderstandings often arise between workers and employers because important matters have not been discussed. Many workers accept a job without knowing what work they will have to do. Or, later, they are afraid to say that they are not happy with the conditions. It is important to spend time talking about the job and agreeing on what is to be done on both sides.

**\* Note** You do not have to have a written agreement. A worker and an employer should decide together whether or not to enter a contract.

Writing out a contract is a good idea for many reasons:

- the working conditions become quite clear, and a good working relationship will develop if these are understood
- a worker and an employer will know their rights and be able to speak out if these rights are not being granted
- all necessary matters can be dealt with
- if there is a dispute that goes to court, the contract will provide conclusive evidence of what was agreed to (if there is no contract, the court has to determine the most believable story, which is not easy)

But a written contract is valid in law only if it is read, understood, agreed upon and signed by both a worker and an employer. Both sides must be satisfied with the contents, and both their interests should be protected.

Discussion on the contents of a contract is important for building trust and is the start of a good relationship, but it is not enough. Time should be set aside once a month to talk over difficulties, or time should be made to look at specific problems as they arise.





If any changes to the contract are to be made, the person wanting the changes should give notice of them in good time. When both sides have agreed to any changes, these should be written into the contract or, if necessary, a new contract should be drawn up, and be signed by both a worker and an employer. A written contract should be full and include all possible matters. If anything important is left out and there is a dispute, the court will have to decide on the matter, taking into consideration the common law rights of a worker.



Although workers and employers have some freedom to decide on what is included in a contract, no part of a contract can be against ordinary laws or be immoral. However, matters agreed upon are binding and can override common law; therefore be aware of rights under common law so that these rights are not undermined.

In a contract the names, addresses, telephone numbers and I.D. numbers of a worker and an employer must be written in. Two copies of a contract should be made, and both should be dated and signed by a worker and an employer, preferably in front of two other people. (If a worker or an employer is under the age of 21, a parent or guardian must also sign). One copy should be kept by a worker and one by an employer. No revenue stamps are needed.

*\* It is recommended that a representative from SADWU, an advice office worker, or a lawyer from a legal aid clinic be consulted to help in writing a contract.*

### ☛ TO YOU THE WORKER

You can choose if you want a written contract or not.

If you want to have a contract\* make sure, before signing, that:

- your rights are protected

- you understand what is written in a contract (if not, you must find out what everything means or ask for a translated copy of the contract)
- you agree with everything written in a contract and you do not accept detrimental terms (once you have signed a contract, it is legally binding)

## ☛ TO YOU THE EMPLOYER

A worker may find difficulty in putting forward requests; if she or he is afraid of losing the job, is illiterate, or has difficulty in understanding a second or third language. Discuss every section of the contract to make sure that it is understood.

## ■ SUGGESTED CHECKLIST FOR THE CONTENTS OF AN AGREEMENT/ CONTRACT

Any agreement between a worker and an employer (verbal or written) should consider the following matters:

### 1. EMPLOYMENT PERIOD

- ☐ starting date of work
- ☐ trial period
- ☐ notice period and the way in which notice will be given
- ☐ reasons for dismissal

### 2. SPECIFICATION OF TASKS

- ☐ what the tasks are
- ☐ when and how often tasks are to be done

### 3. WAGES

- ☐ rate of wages
- ☐ when wages will be paid
- ☐ how wages will be paid
- ☐ deductions
- ☐ overtime rates
- ☐ increases in the future, and dates when they will be paid
- ☐ payment when a worker leaves the job

### 4. HOURS OF WORK

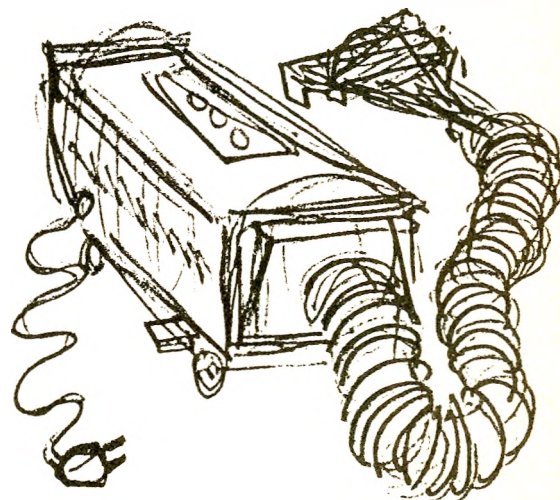
- ☐ days, and hours of work each day
- ☐ time off
- ☐ overtime
- ☐ bonuses (annual and long service)

### 5. LEAVE

- ☐ how much holiday/sick leave a worker is entitled to
- ☐ notice for holiday leave
- ☐ payment of wages during holiday/sick leave
- ☐ accumulation of holiday/sick leave over a set time
- ☐ payment of unused holiday/sick leave when a worker leaves the job
- ☐ unpaid holiday/sick leave
- ☐ requirement or not of a medical certificate
- ☐ maternity/paternity leave
- ☐ special leave

### 6. BENEFITS

- ☐ medical payments, including for injury while working





- ☐ pension and retirement age
- ☐ accommodation, visitors
- ☐ meals
- ☐ clothing
- ☐ transport allowance

## 7. DISCIPLINARY MATTERS/GRIEVANCE PROCEDURE

*(Some of the above will be dealt with in detail in this booklet.)*

A contract or agreement can be for a fixed or undefined time period.

# DEFINITION & ALLOCATION OF TASKS

A worker's daily tasks, and how often they must be done, need be discussed and specified in the beginning. The most important tasks should be put in writing. It is fair that duties are assessed from time to time.

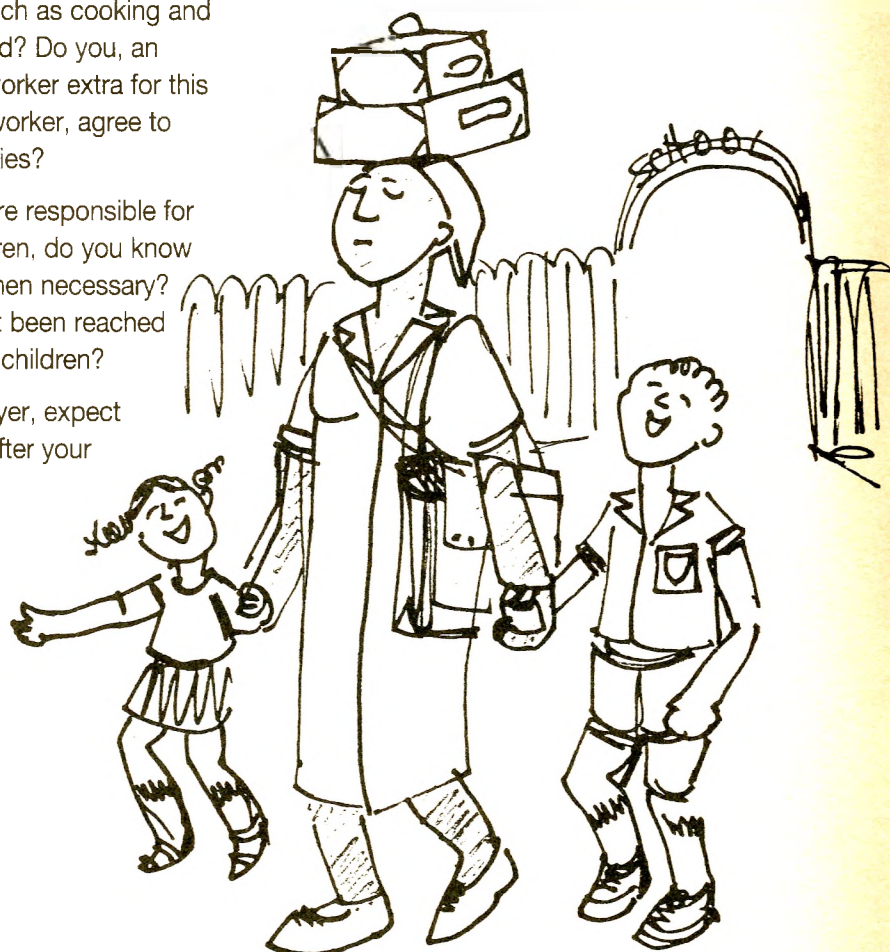
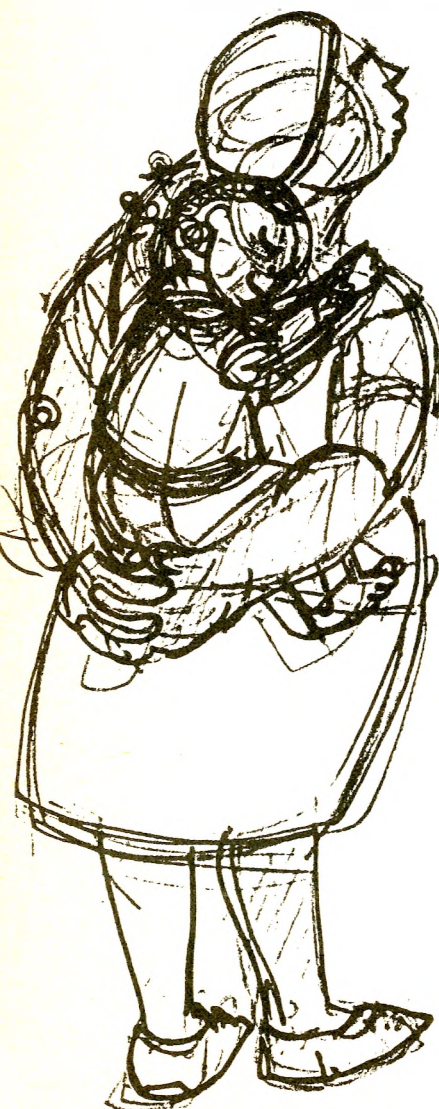
Housework is generally tiresome, never-ending and difficult work. Tasks should be varied from day to day to relieve the boredom.

## ■ A FEW IMPORTANT QUESTIONS

Do duties involve housework alone, or is work which requires additional skills and/or responsibilities, such as cooking and child care, included? Do you, an employer, pay a worker extra for this work? Do you, a worker, agree to these responsibilities?

If you, a worker, are responsible for looking after children, do you know who to contact when necessary? Has an agreement been reached about disciplining children?

Do you, an employer, expect a worker to look after your





house when you are away? By doing this are you not putting a worker's life at risk?

Are you, a worker, expected to do more work when visitors arrive? Do you, an employer, pay extra for this?

Do you, an employer, assume that a worker will know what tasks to do or how to do them, or do you provide guidance and training? Is a worker allowed, and taught, to use machines to lessen the work load?

Who is responsible for allocating tasks to a worker? It is easier if a worker is responsible to one person. Children in the home should not have the authority to ask a worker to do things as they will not be clear on what conditions of employment have been agreed to.

## WAGES

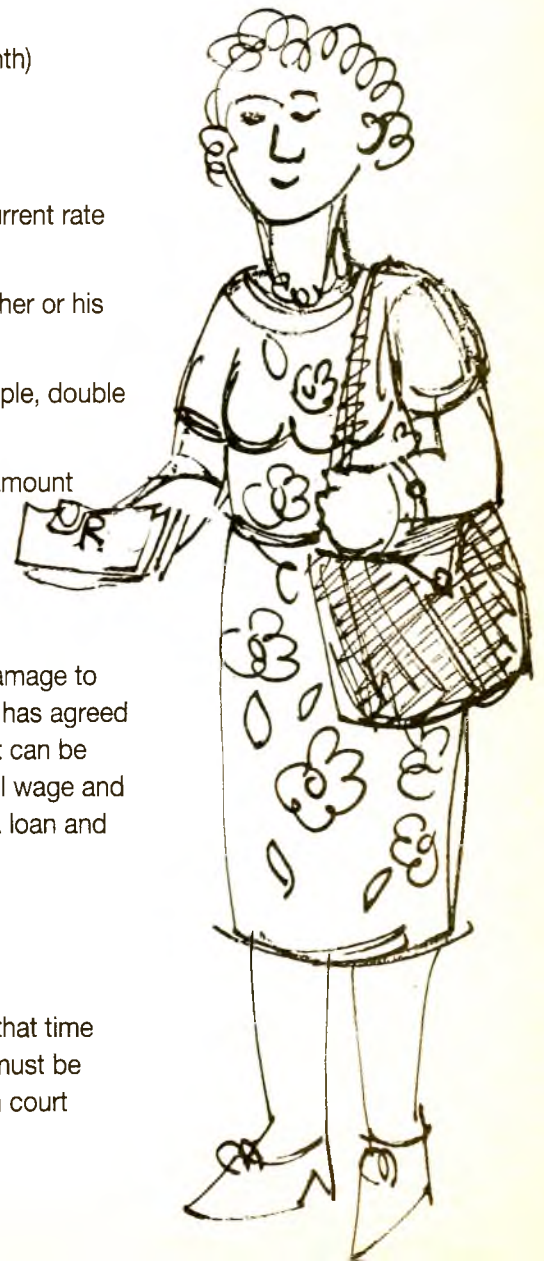
In any agreement the following should be discussed and agreed upon by a worker and an employer:

- the amount to be paid for ordinary time, and whether it is to be paid per day, per week, every two weeks or per month
- the fixed date for pay (for example, the last working day of the week or month)
- how a wage is to be paid (payment should be in cash)
- payment for transport over and above a wage
- an annual increase; how it will be worked out (for example, based on the current rate of inflation) and when it will be paid
- other adjustments or increases of salary (for example, if a worker improves her or his skills or if a worker's responsibilities are broadened)
- bonuses; how they will be worked out and when they will be paid (for example, double the monthly wage at Christmas time)
- long service bonus when a worker leaves the work (for example, a certain amount paid for each year worked)
- permissible deductions
- payment when a worker leaves work

There have been cases of money withheld for breakages or other forms of damage to property. Under common law such deductions are unlawful (even if a worker has agreed to them, fearing the loss of her or his job if she or he does not agree) unless it can be proved in court that it was a deliberate action. An employer has to pay the full wage and can only make deductions for, for example, trade union fees, repayment on a loan and pension fund contributions if a worker has agreed to these.

### TO YOU THE WORKER

Wages have to be paid on the date agreed on. If an employer cannot pay at that time you can ask for an I.O.U. stating the amount and when it will be paid, and it must be dated and signed by you and the employer. Otherwise you can take action in court



\* Consult SADWU, your local advice office or a legal aid clinic for help in this regard.

against an employer if your wage, or part of it, is not paid to you.\*

Do not agree to any deductions without understanding your rights. Money cannot be taken from your wage if you break or spoil something by accident. If an employer insists on making a deduction for breakages, or because she or he alleges that you stole something or were late for work, you can take the matter to court.

## TO YOU THE EMPLOYER

Although there is at present no law binding you to certain wage scales, take into account the following when determining a wage:

- the nature of the work, including the amount of responsibility given to a worker
- the hours worked
- the level of skill of a worker
- your total household income
- how much it would cost you to use outside services if you did not employ a domestic worker; for example, putting a child in a creche
- the cost of living

Consider the wage you pay from a moral, humane viewpoint.

Employ a worker for the time you can afford. Make the working day or week shorter so that a worker can work elsewhere, enjoy more leisure time or take courses to improve her or his skills.

Factors that can be considered when determining a "living" wage:

1. Paid domestic workers, like other workers, support or contribute to the income of their families. They need a wage which will enable them to afford housing, education, food, clothing and transport for themselves and their families, even if their own basic needs such as accommodation and food are provided for at work.
2. Women workers should be paid wages equal to that paid to men. Many are single parents and sole breadwinners of a family.
3. South Africa suffers from a high inflation rate, and rising prices have meant a fall in disposable income. The wages of domestic workers should keep up with the increase in the cost of living so that they can buy the same as before.

The month's pay should be recorded each month, and include:

- total payment (basic normal wage, overtime pay, bonus, transport)
- total deductions (loan repayments, pension contributions and any other agreed deductions)
- what the final, net payment will be (that is, the total payment minus total deductions)

The above information, as well as the date of payment, should be transferred onto a payslip on the last working day of every month, and be signed by you and a worker and given to a worker. Issuing a payslip will help sort out any queries on money payments.

If payment is made in kind (for example, in the form of food, accommodation and clothing) the cash value of it should be stated in a contract and should not be more than half a wage. There should be a clear distinction between what is given in friendship and what is given as part of a wage.





## HOURS OF WORK

Working hours for paid domestic workers are often long and undefined. It is therefore important to negotiate and agree on the following:\*

- the number of hours to be worked each day and, if applicable, the maximum hours per week
- the times for starting and ending work each day, and time off for lunch and tea breaks (a lunch hour should not be included in the hours of work, but time taken for tea should be included)
- for live-in workers, time off during the week and on weekends
- the number of public holidays to be taken each year. A worker may prefer to take off days recognised as commemorative days such as 21 March, 1 May and 16 June in place of certain government holidays.\*\*
- payment or not if there is a stay-away

\* SADWU (1989)

*recommends an eight-hour-a-day five-day working week (with a maximum of 46 hours per week) for full-time live-in domestic workers, with weekends and public holidays off and a half day off during the week. Under the Basic Conditions of Employment Act (applicable to industrial workers but not to paid domestic workers) a maximum of 46 hours per week can be worked; a maximum of eight hours per day for workers working a six-day week, and nine-and-a-quarter hours per day for workers working a five-day week.*

\*\* The Public Holidays Act provides for ten public holidays per year.

### TO YOU THE EMPLOYER

Be realistic about the number of hours you expect a worker to work in relation to the work to be done. If employing a worker one day a week, don't expect her or him to do one week's work in that day. If employing someone full-time, do not make her or him work eight hours as a matter of principle; rather, reduce the hours according to the work that needs to be done.

Recognise that live-out workers may live far from work and have to travel long hours, getting up early and arriving home late with little time to attend to their families needs. This stressful situation can be alleviated by shortening the daily working hours.

A day off should be respected, and no work should be expected to be done on that day.

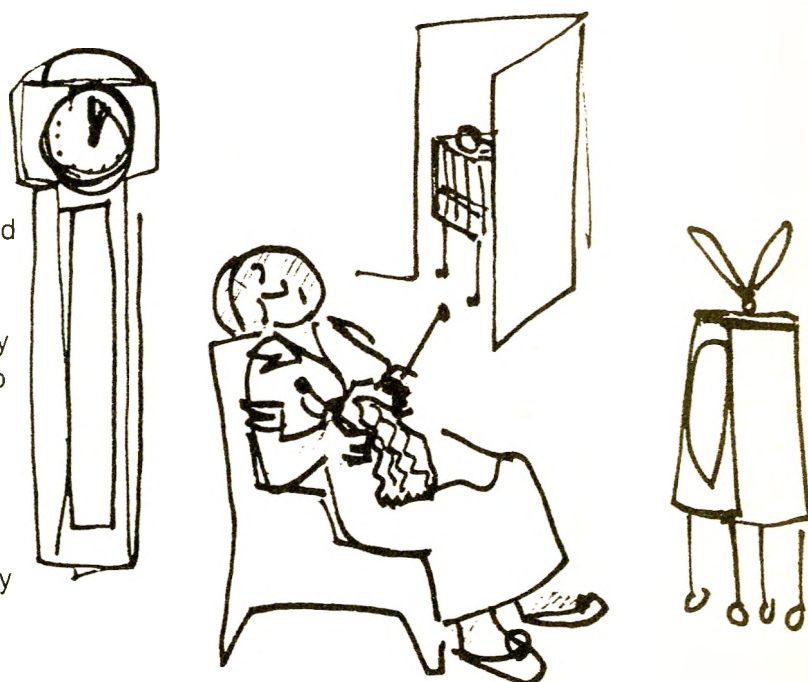
## OVERTIME

All hours worked over and above the agreed upon normal hours of work are considered as overtime.

Overtime work is voluntary, and a worker should be asked at least a day in advance if she or he is willing to work that time so that necessary arrangements can be made. It should be clearly specified what work a worker is expected to do at that time.

The amount to be paid should be worked out according to the day on which overtime is worked and be based on the set rate per hour:

- for weekdays: one-and-a-half times the hourly wage for every hour overtime worked
- for Sundays: twice the hourly wage for every





hour worked

- for Public Holidays which do not fall on a Sunday: one-and-a-half times the hourly wage for every hour worked

Time off during the week for work done on Sundays or on Public holidays is no substitute for payment.

Overtime rates should be adjusted to increases.

If working overtime involves travelling costs for a worker, this should be taken into consideration.

## LEAVE

*\* SADWU recommends 21 working days annual leave after completing twelve months of service for full-time workers.*

*Domestic workers who work at different employers on different days should be given a minimum of three days paid leave per annum by each employer.*

*Under the Basic Conditions of Employment Act (applicable to industrial workers but not to paid domestic workers) full-time workers are entitled to a minimum of 14 consecutive days holiday leave for every year worked.*

### ■ HOLIDAY LEAVE

There is no right to holiday leave for paid domestic workers other than in terms of a contract, or if an employer has verbally promised leave or implied it by giving leave. A worker should, however, be entitled to take a set number of working days as holiday leave with full pay for every year of service completed.\*

### 👉 TO YOU THE WORKER

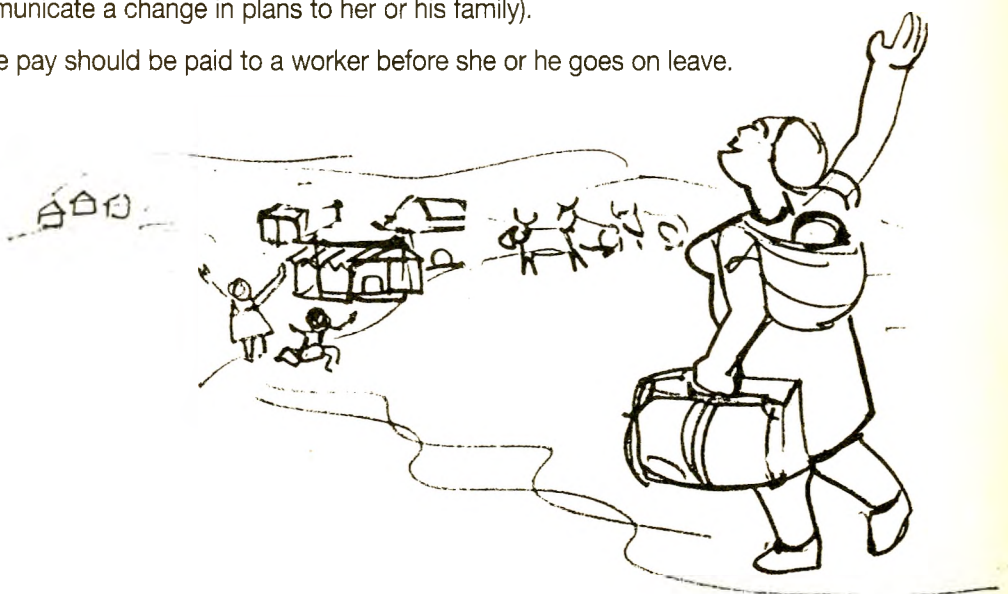
Negotiate times for taking holiday leave. It is only fair that you give adequate notice of taking leave so that an employer can make other arrangements.

### 👉 TO YOU THE EMPLOYER

The time when leave is taken should be reached in agreement with a worker, and be her or his choice (a worker who works at different employers can then take leave at one time). It is unfair to expect a worker to take leave either at the same time as you or by going on holiday with you.

If there is a need to change the time leave is taken, notice for such change should be given well in advance and be negotiated (a live-in worker may not otherwise be able to communicate a change in plans to her or his family).

Leave pay should be paid to a worker before she or he goes on leave.



## ■ SICK LEAVE

It is recommended that a worker be given an agreed-upon number of days of paid sick leave in any year, and that this is specified in a contract. Benjamin (1980), a lawyer, has said that domestic workers are the exception to the common law rule, that a worker who is cannot work on account of being sick is not entitled to any pay for the period of illness. The courts have held that a domestic worker may be ill (and be paid during his or her period of absence) for 'a moderate space of time'.

Whether the time taken off is paid subject to the furnishing of a medical certificate if a worker is sick for a certain number of days, should also be negotiated.

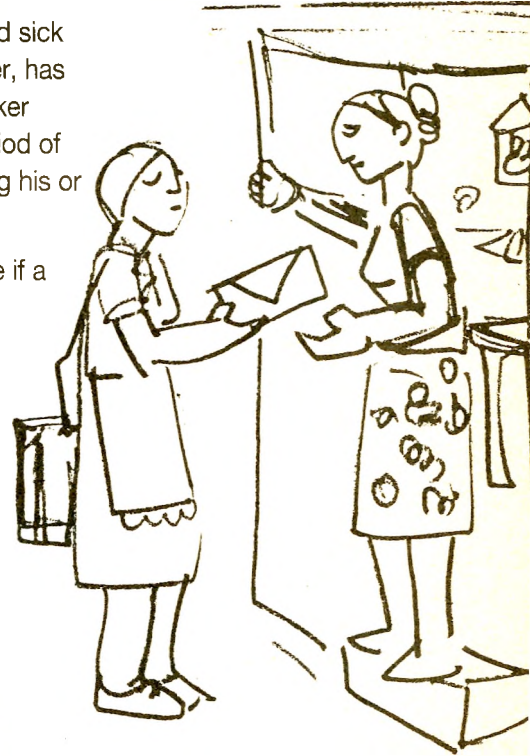
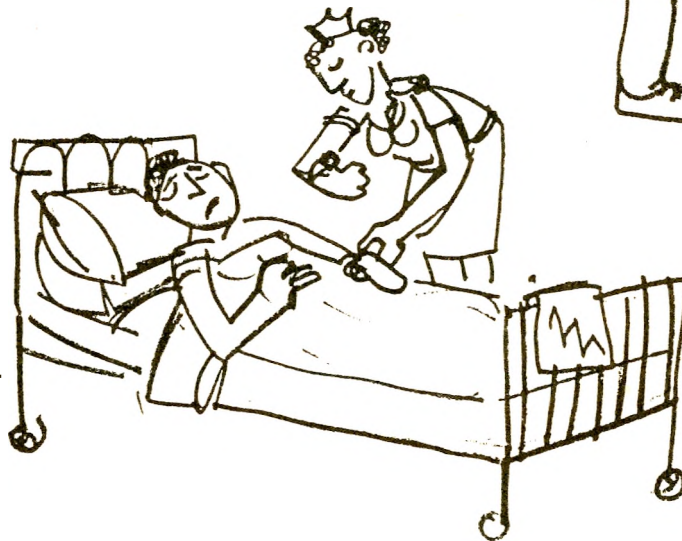
Sick leave should be cumulative so that a worker can have adequate time off, for example for an operation.

### 👁️ TO YOU THE WORKER

If you know that you will be sick for a long period of time, inform an employer and possibly organise a replacement at your job.

### 👁️ TO YOU THE EMPLOYER

Absence due to illness for a reasonable period will not entitle you to summarily dismiss a worker. Notice of dismissal should not be given while a worker is off sick.



## ■ SOME GENERAL QUESTIONS ABOUT HEALTH & SAFETY

Have all necessary details regarding health and safety been discussed and agreed upon and, if applicable, specified in a contract?

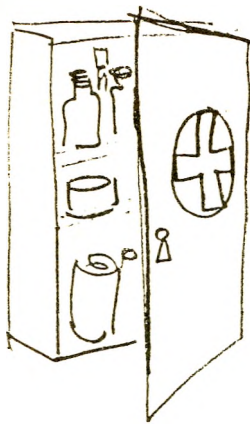
Did you know that domestic workers are not covered by the Workmen's Compensation Act, under which industrial workers get paid a part of their salary while off work if they are injured on duty? Domestic workers are, however, covered by common law and the Machinery and Occupational Safety Act. These laws require employers:

- to give a worker protective clothing (this could include providing shoes for when cutting grass, and rubber gloves for when using poisonous substances)
- to have a first aid kit available in the home for use by a worker
- to see that domestic workers work in a safe working place, and to instruct a worker in the use of working equipment. A worker has the right to say no to working under circumstances that are dangerous
- to report, either to the police or a to local authority, an incident in which a worker is injured in the workplace

If a worker is injured on duty, an employer should pay costs of the treatment. A worker can sue an employer if injured as a result of an employer's negligence or specific instruction. However, an employer is not liable "if it can be proved that all reasonable steps were taken to prevent the accident which caused the injury; that the actions





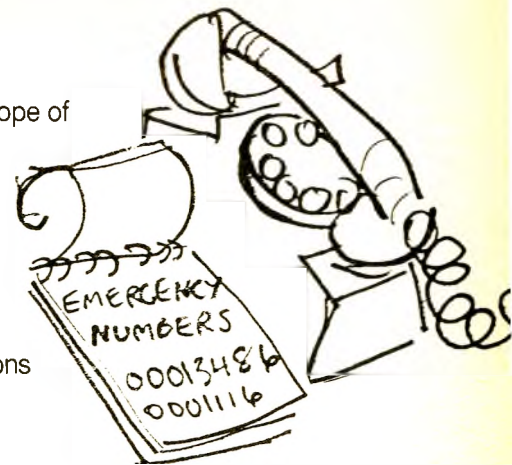


leading to the accident were outside the normal scope of the domestic's duties or that the action was done without the employer's knowledge or permission" (Gilfillan, 1990: 2).

Does a worker have access to doctors, clinics or hospitals?

Can a worker read labels and understand instructions on bottles containing poisonous substances?

Is the telephone unlocked to enable contact with necessary people if there is an accident, assault or burglary? In case of an emergency does a worker have a list of relevant numbers to phone, and has she or he been introduced to the neighbour?



## ■ MATERNITY BENEFITS

*\* SADWU recommends eight weeks paid maternity leave before giving birth and at least six weeks paid maternity leave after giving birth.*

*Under the Basic Conditions of Employment Act (applicable to industrial workers but not to paid domestic workers), workers are entitled to four weeks maternity leave before giving birth and eight weeks maternity leave after giving birth. This leave is without payment, but maternity benefits are provided for in terms of the Unemployment Insurance Act.*

All women who work are morally entitled to paid confinement leave to allow for a rest period before and after giving birth.\*

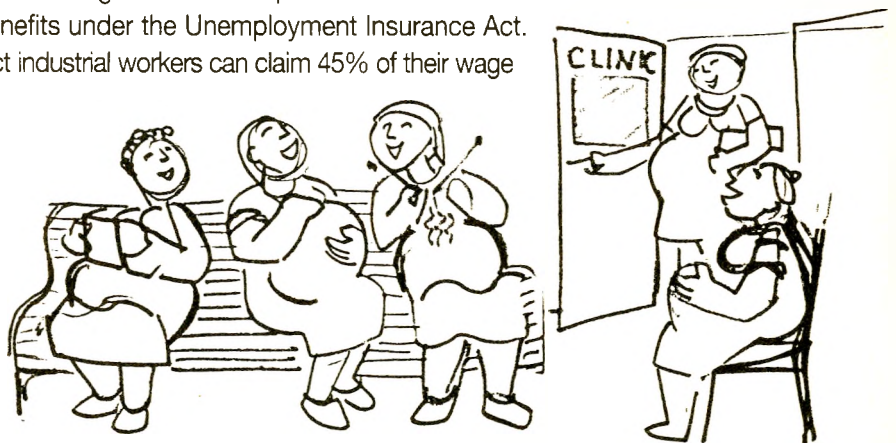
During the pregnancy, while still working, workers should be given time off to attend antenatal clinics. If a baby is with a mother at work, time off should be given for breast-feeding.

### ☛ TO YOU THE WORKER

Ensure that you have a guarantee from an employer that you will be able to return to your job after the birth, and under the same conditions and with the same benefits.

### ☛ TO YOU THE EMPLOYER

If you are not able to pay full maternity leave it is recommended that you pay at least part of a worker's wage for a certain period. Domestic workers are not entitled to maternity benefits under the Unemployment Insurance Act. Under this Act industrial workers can claim 45% of their wage



for up to six months before or after giving birth, depending on the length of time they have worked in the preceding year (one week's benefit is paid for every six weeks worked).

## ■ PATERNITY LEAVE

This should be negotiated between employers and male domestic workers.



## CALENDAR SETTING OUT WORKING CONDITIONS

It is worthwhile that a calendar be drawn up showing each month separately, on which anything of importance is noted; for example, hours or days worked, overtime, time taken off, leave, wages and other money matters such as bonuses, advances and loans.

Such a record means that workers and employers will no longer be faced with trying to remember what is owed. Misunderstandings will be cleared if, each month, you go through it together and agree to and sign the contents.

## ACCOMMODATION

Live-in paid domestic workers are provided with accommodation in addition to the cash wages paid.

Some employers justify paying low wages because accommodation is "free of charge", but in fact a worker is indirectly paying for such accommodation in that it is taken into consideration when wages are worked out. The value of accommodation should be given a money value in a contract.

Many workers take on domestic work because of the general shortage of housing, and are dependent on their job for a home. Although this may mean that they put up with poor living conditions in order to have a place to stay, accommodation should be comfortable and spacious, with a sound structure. Living quarters should conform to certain standards and there should be:

- a door with a lock
- a burglar-proofed window that opens
- curtains, an electric light, chair, table, cupboard, bed with a good mattress, and a heater
- a ceiling and floor covering
- ablution facilities (a toilet that works, and shower or bath)
- access to running water (hot and cold)
- electrical fittings
- facilities for cooking (such as a kettle and hotplate)

### TO YOU THE WORKER

An employer cannot evict you from her or his premises unless a contract of employment has ended. If the contract has not ended, an employer has to follow normal civil eviction procedures and get a court order before evicting you. If there is no court order, you can ask the court for a spoilation order which allows you to return to the premises until the court order is produced by an employer.

Furniture belonging to an employer is to remain on the premises of an employer unless otherwise agreed to.

### TO YOU THE EMPLOYER

A worker's privacy and independence should be respected at all times. A live-in worker



should not be expected to share a room with another person. A live-out worker should be provided with a toilet and a place to rest and to wash.

Where a worker is not provided with accommodation, wages should be higher and be adjusted to increased prices.



## MEALS

An agreement should be made as to which meals, if any, are to be provided by an employer. For example, it is recommended that a live-in worker is given three meals a day and a live-out two meals a day. As with accommodation, the value of food should be given a money value in a contract. If meals are not provided, wages should be raised, and be adjusted to current food prices.

Workers should be provided with a clean, comfortable place in which they can eat undisturbed.



## TRANSPORT

Live-out workers should be paid a transport allowance covering current bus, train or taxi fares over and above the set wage. Money for transport need be adjusted when fares go up.

### TO YOU THE EMPLOYER

Be aware of current transport costs. Keep in mind that over weekends and on public holidays transport can be scarce.



## CLOTHING

### TO YOU THE EMPLOYER

A worker should be provided with working clothes (for example a uniform or overall) and protective clothing free of charge.

### TO YOU THE WORKER

Unless otherwise agreed upon, clothing provided to you by an employer usually remains the property of an employer and you are required to return when you leave the job. You should take all reasonable steps to ensure that the clothing is not lost or damaged in any way.



## THE USE OF FACILITIES

The use of facilities in the house (for example, the radio, telephone, television, fridge, deep freeze, washing machine, stove, cutlery and crockery) is often a contentious issue between worker and employer. It should therefore be carefully discussed.

## WORK RELATIONSHIPS

The relationship between a worker and an employer is based on contradictions. Although some employers work and have no personal contact with a worker, the relationship can be close (a worker is seen as "one of the family") yet, at the same time, there is social distance. A worker is given responsibilities on one level, yet is not trusted on another. A good working relationship will develop out of mutual respect, honesty and understanding.

The relationship can be improved if a worker and an employer work out ways together to settle disagreements. If problems arise (for example if there is a breach of contract or if common law rights are undermined) ways to resolve the dispute should be agreed on and clearly written out. An outside person can be asked to come in to mediate if the problem cannot be solved by a worker and an employer.

### TO YOU THE WORKER

Be open with an employer about things that you are not happy with.

Employers often feel resentment if they get involved with your family affairs. Limit this as it increases the obligation that you have to an employer and can complicate a relationship.

### TO YOU THE EMPLOYER

Apply humane and moral principles in your actions and attitude to a worker; for example, show respect and trust. Find out the work-related needs of a worker. Put yourself in her or his position so that you are aware what she or he is experiencing in the job.

Do not expect a worker to act as a mediator passing on messages to people in the house as this places a worker in a difficult position, particularly if a message is misunderstood.

Language may be a barrier to communication therefore ensure that a worker understands all that is being said.



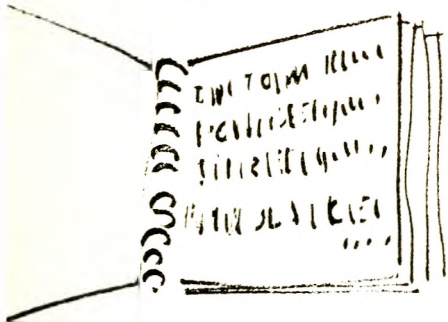


## PERSONAL INFORMATION

It is advisable that both an employer and a worker keep a card with personal details of each other. This is particularly important if something happens to a worker and the family needs to be contacted.

The information should include:

- full name
- I.D. number
- home and work addresses
- home and work telephone numbers
- the name, address and telephone number of a close family member



## LEAVING THE PLACE OF EMPLOYMENT, DISMISSAL

### ■ DISCIPLINE

#### 👁️ TO YOU THE EMPLOYER

If you wish to take disciplinary action against a worker, it is important that you follow fair procedures. First give a verbal warning, that a repeat of the behaviour may lead to dismissal. If you feel that there is no improvement, give a warning in writing. Discuss it with the worker; she or he is entitled to give her or his side of the story, and it is fair that she or he has the choice of being assisted (for example by a representative of a trade union). Keep an open mind, giving a trial period to allow a worker to improve before making a decision on the matter. If you decide that you no longer want the worker to work for you, rather than summarily dismissing her or him give notice of dismissal.

### ■ GROUNDS FOR DISMISSAL

A worker may only be summarily dismissed (that is, dismissed without notice) for refusing to obey a reasonable and lawful instruction, dishonesty, gross misconduct (including violence), drunkenness, or gross incompetence or negligence.\*

*\* Consult SADWU, a local advice office or a legal aid clinic if you need clarification on this.*

#### 👁️ TO YOU THE EMPLOYER

While you may say that a summary dismissal was justified, it will be up to you to prove this if the matter is taken to court. The case will be judged according to the surrounding circumstances.

Where you wish to justify dismissal on the grounds of disobedience, you will have to prove that the refusal to obey an order was a serious and deliberate refusal. If a worker refused on the grounds of danger that an order will lead to injury or expose her or him to illness, or that it is outside the scope of her or his duties, this will not justify dismissal.

There is no fixed rule of law defining the degree of misconduct which will justify dismissal. Factors such as whether the act was done deliberately, or what a reasonable person would have done in a similar situation, will be taken into account.

Incompetence means that a worker is not able to do a job, or is perpetually careless, or who repeatedly fails to come to work or is often late for work. A worker who, for example, fails to return from leave on time because of transport problems, or who breaks something by accident, cannot be summarily dismissed. Nor can a worker who complains about working conditions.

## ■ GIVING NOTICE

Should an EMPLOYER wish to end the working relationship, if there are no grounds for summary dismissal she or he is required to give notice. An employer and worker must agree as to whether the notice time is to be worked or not (in either case a worker gets paid for the notice period). If it is to be worked, an employer should be flexible during this time, taking into consideration the fact that a worker might need time off to look for another job.

Should a WORKER decide to leave the place of work, she or he is also required to give notice of ending the employment unless an employer has committed a breach of contract; for example, if wages have not been paid or if a worker is assaulted.

Neither a worker nor an employer have to give reasons for ending the working relationship if notice is given unless it is stated otherwise in a contract.

## ■ NOTICE PERIOD

If a trial period is set, the notice of termination is usually 24 hours for both a worker and an employer. After the trial period, it should be stated that a worker is permanently appointed. Unless other terms have been agreed to in a contract, common law now applies and the notice period is determined on the basis of when payment is made. (If the notice period agreed on and specified in a contract is different to that defined under common law, bear in mind that it should be reasonable.)

Either a worker or an employer is required to give:  
one month's notice if a worker is being paid monthly

or

two week's notice if a worker is paid every two weeks

or

one week's notice if a worker is paid every week.

Annual leave should not be seen as part of the notice period.

## ■ PAYMENT WHEN A WORKER LEAVES

**If an employer ends the working relationship ...**

IF THERE ARE GROUNDS FOR SUMMARY DISMISSAL, an employer is obliged to pay for work already done and for unpaid leave.

IF THERE ARE NO GROUNDS FOR SUMMARY DISMISSAL, an employer has to serve or pay notice. If no notice is given, a worker has an action for summary dismissal, and an employer is obliged to give a worker:





1. Pay for time worked, based on the normal wage.
2. Notice pay (money in lieu of notice). This is based on the notice period:

one month's notice pay if a worker is paid monthly  
or  
two week's notice pay if a worker is paid every two weeks  
or  
one week's notice pay if a worker is paid every week

3. Leave pay for leave which has been promised to a worker but has not been taken.
4. If a worker has been paid in kind (for example in the form of food and accommodation), she or he is entitled to the cash value of one month of those wages paid in kind.

Notice should be given in writing at the end of a month. If a worker is summarily dismissed in the middle of a month, a worker can claim pay for the whole month as well as notice pay.

*A contract ends at the time of termination of employment. It is advisable that you contact your nearest SADWU or advice office for information regarding dismissal and the ending of a contract.*



### **If a worker ends the working relationship ...**

IF A WORKER HAS SERVED NOTICE, she or he and an employer must decide if the time is to be worked or not.

If there is agreement that the notice period is to be worked, a worker is entitled to pay for time worked based on the normal pay (including for the notice period), and leave pay for leave which has been promised but has not been taken.

If there is agreement that the notice period is not to be worked, a worker is entitled to pay for time worked, notice pay for the period of notice (as above), and leave pay.

IF A WORKER HAS NOT SERVED NOTICE, she or he cannot claim notice pay, although all monies due to her or him for work done and leave pay must be paid. Under common law deductions cannot be made from her or his wages. An employer who wishes to claim for damages against a worker for not giving notice can do so in court.

Payment must be made when a worker leaves the place of work. An employer cannot lay down conditions for payment; for example, that a worker will only be paid once the room has been inspected.

If an employer moves from the place of residence without telling a worker and without serving notice or paying a worker money owed, a worker should follow up by asking neighbours the name of the removal van, by phoning an employer's place of work, or by contacting the supervisor if the workplace was in a block of flats.

## **■ CERTIFICATE OF SERVICE**

It is important that a worker be given a certificate of service when leaving the place of work, no matter what the reasons are for leaving. The certificate should include:

- details of a worker (name, address, telephone number and I.D. number)
- details of an employer (name, address, telephone number)
- the period of employment (dates when the employment started and when it ended)
- the wages per day, week, fortnight or month
- the type of work done
- skills a worker gained while working
- any other remarks that may be relevant

A character reference is also important to a worker for future work. Many employment agencies insist on previous references before they help a worker find another job.

# LAWS RELATING TO WORKING CONDITIONS

Paid domestic workers as workers are, at present, not protected by any laws other than common law.\*

Domestic workers are excluded from the provisions of industrial legislation; the Workmen's Compensation Act, the Labour Relations Act, the Wage Act, the Unemployment Insurance Act, and the Basic Conditions Of Employment Act.

There are also no laws which are against discrimination on the grounds of race or gender, or which prohibit sexual harassment.

Although common law rights can be enforced, there is little protection by law and this can result in unfair labour practice. Also, paid domestic workers cannot benefit from laws which industrial workers enjoy.

*\* Trade unions and political organisations have, for many years, been asking for legal provisions to cover the employment of domestic workers. Questions have also been raised in parliament. In the 1980's the National Manpower Commission investigated the situation of domestic workers. Although a report was completed, it was never shown to the public. But in 1990 the National Manpower Commission set up a special committee to look into the possibility of enacting laws relating to the employment and protection of domestic workers. The position regarding legislation is likely, therefore, to change.*

## DISPUTES

If a matter is not settled between a worker and an employer, the case can be taken either to the Small Claims Court or to the Magistrate's Court, depending on the matter and the amount of the claim.

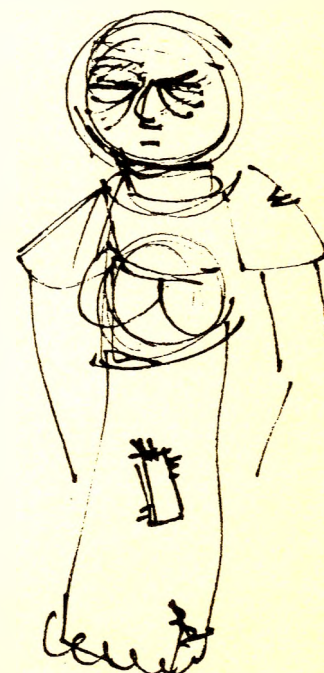
### ■ THE SMALL CLAIMS COURT

The Small Claims Court makes civil law accessible to all; it is there to provide people with a quick, cheap way to redress their grievances. For example, an employer can be summoned to appear in the Small Claims Court for matters taken up against her or him by a worker such as unpaid wages and notice pay, and leave pay on summary dismissal.

### ☎ TO YOU THE WORKER

It is frightening to think of going to court. It is therefore important that you consult SADWU, your local advice office or a legal aid clinic for help in knowing the court procedure. There are also booklets available which you can read as preparation (see the section on REFERENCES). The clerk of the Small Claims Court is obliged to give advice and help you with the necessary documentation free of charge. Both an employer and a worker need to be prepared for court. This information will help in that preparation:

- a claim must be made against the correct person, that is, the person with whom the conditions of employment were discussed
- the full and correct names and addresses of both a worker and an employer must be specified on all forms, particularly on the summons
- the commissioner (presiding officer) must have written proof that the summons was served on the defendant before the case can proceed. If, in court, it is found that the summons was not delivered, the case will be adjourned or dismissed, and it will be necessary for the summons to be reissued to the correct address for the case to finally get a hearing
- you must appear in court and give evidence yourself. You cannot be represented by any person (for example, a trade union representative or a lawyer cannot act or appear





for you). This does not mean that you cannot get advice beforehand. A minor (a person under the age of 21) must be helped by a parent or legal guardian. A married woman who is subject to the marital power of her husband must be helped by her husband

- be prepared with your evidence. Be clear on the facts and have with you all relevant documents. Any evidence can be submitted to the court orally or in writing. A case can be dismissed because of lack of evidence

- the defendant may, before the hearing, hand in to the clerk of the court a written statement stating the defence, a copy of which must be given to the plaintiff by the defendant

- know your rights according to the agreement or contract you have made, or your rights under common law. If there is no written contract, common law applies. Make sure that you understand the claim being made

- the plaintiff can only claim what is stated in the summons, so it is important to fill the summons in with the correct details and claim

- either English or Afrikaans may be used during the proceedings. If another language is to be used, you must arrange beforehand that an interpreter be present

- you can call in a witness, who should be told the time and the date that the case will be heard

- no party can question or cross-examine the other party or a witness unless the commissioner allows it

- the judgement of the court is final and no appeal can be made

- only amounts not exceeding R1 500 can be claimed. Remember to claim for costs

Many employers and workers are not aware of rights under common law. The success of cases in the Small Claims Court have helped educate people about these rights. However, a greater awareness of the law could help settle matters amicably, and the problems of bringing a case to court could be avoided.

## ■ THE MAGISTRATE'S COURT

If a claim is for more than R1 500 or if a matter does not fall within the jurisdiction of the Small Claims Court, the matter must be taken to a Magistrate's Court. For example, if an employer is claiming for damages against a worker who has been negligent, or a worker is claiming for damages from being injured on duty or being wrongfully evicted from an employer's premises.

It is necessary that both a worker and an employer are represented by a lawyer in the court, and this can be expensive.

---

## TRADE UNIONS

It is difficult for paid domestic workers to organise and so benefit from collective bargaining and support. This is because of their isolation and wide dispersion. Also, involvement in a union is limited by time factors, and the distance to travel and the cost of transport to meetings. Nevertheless there are trade unions for domestic workers in South Africa.

SADWU (South African Domestic Workers' Union) deals specifically with issues relating to domestic workers. Its aims include:

- to organise workers
- to protect workers against unfair labour practice

- to promote the interests of its membership
- to settle disputes between workers and employers
- to look into, and press for, laws for domestic workers
- to help workers in problems relating to work
- to educate workers about their rights
- to give training to improve workers' skills in the workplace



**SADWU**  
South African Domestic Workers Union



SADWU has branches throughout South Africa. Workers pay a joining fee and then a subscription every month. Unemployed workers remain members without paying fees for the time that they do not have a job.

## ■ OTHER DOMESTIC WORKER ORGANISATIONS

- The Domestic Workers Association (DWA)
- Black Domestic Workers Association (BLADWA)

### TO YOU THE WORKER

If you join a union you can benefit from the services that the union offers. You can also take up issues that are important to you; for example, women's issues (child care, violence against women and women's rights to equal pay).

### TO YOU THE EMPLOYER

If a worker belongs to a trade union, you should respect that decision and not victimise a worker for joining. There is no law which prohibits a worker from being a union member. Ensure that a worker has time off to attend meetings. Recognise a representative from a union speaking on behalf of a worker when you are negotiating a settlement.

Realise the importance of communicating with the local union to get information about the working relationship, and to sort out any misunderstandings between you and a worker.

Why not start a group amongst employers to represent you so that you can negotiate with a trade union?

## ■ EMPLOYER ORGANISATION

- The East Cape Domestic Employers Association

## ■ PARA-LEGAL, LEGAL BODIES

- The Black Sash Advice Offices
- Lawyers For Human Rights
- Legal Resources Centres
- Legal Aid Clinics at universities





## PROBLEMS FACING PAID DOMESTIC WORKERS

### ■ PAID DOMESTIC WORKERS AS PARENTS

As parents, workers see little of their children. If women, they often have to act as a parent with other people's children while they are experiencing difficulties in being a parent to their own.

Live-in working parents generally only spend time with their children when they are on holiday. Live-out working parents are away from their children for most of the day; when they get home, tired after a day's work, it can be difficult to look after them as well as cope with the demands of running a home. For all, children are often left in the care of others. This often causes continual concern; whether their children's welfare and education is being properly provided for.

If a worker is suffering from stress and anxiety in the work situation, this will affect a child. A good working environment, on the other hand, will have a positive effect on a parent and therefore a child.



### ■ SOCIAL ACTIVITIES

Live-in workers often experience loneliness because they are separated from their family and friends. Their activities are usually confined to what is available in their immediate environment. If they cannot read or write, they are further limited in what they can do. Most cannot afford to go out, and there are seldom community centres in the area which provide entertainment. They are "imprisoned" in the houses where they work, with little access to outside information.

For live-out workers, the demands of hard work, long hours and long distances to travel limit their family life and leisure activities.

## TO YOU THE WORKER

If you are a live-in worker, ensure there is clarity between working hours and leisure time. Negotiate access of visitors; be aware of unnecessary noise and disturbance, and be considerate of an employer.

## TO YOU THE EMPLOYER

Recognise the isolation of a live-in worker and respect her or his need to enjoy the company of family and friends. Discuss arrangements regarding visitors; you can be firm but fair.

If you help finance a worker's children's education, a worker's general family situation can improve. The children will, in the future, have more opportunity to find skilled, better-paid jobs and not necessarily have to do domestic work themselves.

## VIOLENCE AND ABUSE

Paid domestic workers, and particularly women, face abuse on many levels. Not only are they harassed in their own homes by family members, but also in the homes of employers. There have also been reported incidents of violence perpetrated by the police, where workers have been arrested in the streets for "loitering".

Abuse of workers by an employer and/or members of an employer's household happens more regularly than the public know. This is because, for example, that workers are afraid to report the matter, fearing possible dismissal if she or he does so.

Abuse includes the use of harsh, insulting language, room searches, threatening a worker with a gun, ordering a worker to leave the premises without prior warning, calling in the police to detain a worker, and physical and sexual abuse\*. Sexual harassment (unwanted sexual attention) reported by workers ranges from sexual advances to rape.

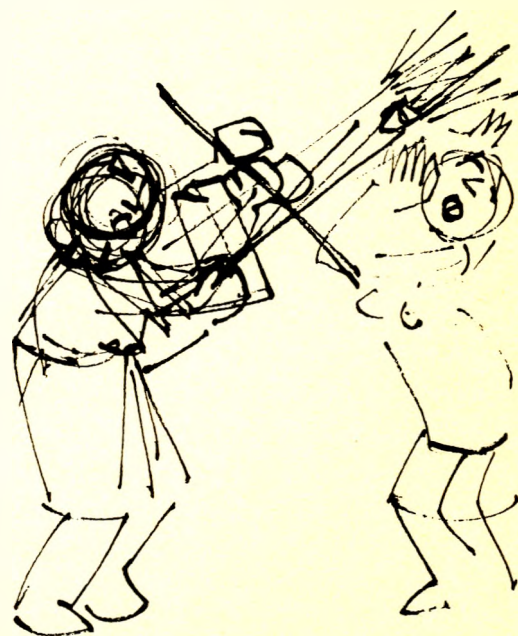
The actions might follow accusations made by a household member; for example, that a worker has stolen something, has refused to obey an order, has other people staying on the premises, is said to be drunk, or is a member of a political organisation or trade union. Often indirect frustration or anger of the person concerned is being vented on a worker, or an employer is showing her or his sense of power over a worker.

There are four criminal charges that can be used in sexual harassment cases:

1. Assault
2. Extortion, when pressure or force is used to secure an advantage (for example, if a worker is told that she or he will lose a job unless she or he agrees to do something)
3. Indecent assault, which includes any act of violence that involves indecent physical violence
4. Crimen Injuria (defamation), which is the impairing of a person's self respect or dignity (for example, privacy and physical integrity.)

Workers are also exposed to violence between members within an employer's household; for example, child abuse. A worker is placed in a difficult position as she or he is responsible for protecting a child yet, if she or he reports the matter, there are implications for the child and for the worker.

*\* Life Line, Rape Crisis or People Opposing Women Abuse (POWA) counsel workers beaten, sexually assaulted or raped.*





## ☛ TO YOU THE WORKER

If you are assaulted by a member of an employer's household, you should:

- make a detailed, written statement of exactly what happened to a lawyer, SADWU, an advice office, or a council of churches, or lay a charge of assault directly with the police
- if there were witnesses to the action, ask them to give evidence. Collect any other supportive evidence, such as photographs or a medical certificate
- claim for damages resulting from abuse by taking the matter to a magistrate's court.

People can only use force against you if you assault them and they need to protect themselves, if you stop them from doing a lawful search, and if they need to use force to arrest you lawfully. But they cannot use more force than is necessary.

If you feel it is necessary, you are entitled to ask for police protection while removing your belongings from the premises and/or while receiving wages due.

## ☛ TO YOU THE EMPLOYER

Workers are entitled to fair and humane treatment. You are not allowed to take the law into your own hands. For example, if a worker has not agreed to be searched then a search of her or his person amounts to an assault on her or him. Even if a worker agrees to punishment (for example, because of fear of dismissal otherwise), the court will not allow it. It is important to provide a worker with safe living conditions.

## ■ PREPARING FOR OLD AGE

Benefits provided to a worker can be seen to go beyond the cash wage to social benefits such as helping a worker prepare for her or his old age. However, these benefits should not be seen as an employer's full responsibility. Employers and workers can discuss the needs of a worker and look at options available. Workers must play their own part, and any final decision must be made by a worker.

### PENSIONS

Few paid domestic workers have any of the retirement or death benefits enjoyed by workers in industry.

When paid domestic workers reach retirement age some are forced to keep on earning a wage, others are dismissed because they no longer have the physical strength to work. When they leave their place of work they often have no savings, and are faced with the prospect of poverty. They are usually dependent on the government pension, which is not enough to meet their needs and can be difficult to get.

One way of making provision for old age is by contributing to a pension fund. Several pension schemes are available for domestic workers, especially designed with relatively low monthly premiums. However, when deciding on monthly payments it is important to take note of the following: although all women over the age of 60 and men over the age of 65 are entitled to a government pension, they lose this if they have private income(s) or pension(s) which are a certain proportion of the government pension. But if a private pension subsidises or replaces a state pension, you should not necessarily decide not to take one out:

- a government pension is not always easy to get whereas private pension is
- without a private pension there is no death or disability protection.



## Pension Schemes

There are pension schemes available for workers (it is recommended that you shop around in your area for the latest package on offer):

- "Domestic Workers Pension Fund" (Federated Life "Assurance")
- "Provider" (IGI Life Assurance Company)
- "Domestic Flexible Retirement Plan" (Anchor Life)
- "The Domestic Pension Fund" (Southern Life)
- "DORA" (AA Life Assurance).

### What Should You Look Out For When You Are Considering A Pension Scheme?

- ☐ Is the pension scheme a recognised one?
- ☐ Do you, a worker, have to undergo a medical examination to qualify? If you are refused for medical reasons, can you take out a retirement plan without insurance?
- ☐ Is the policy restricted by where you, a worker, live and by what your work is?
- ☐ What are the minimum monthly payments? Can these amounts be changed (increased or decreased)? Do monthly premiums automatically increase every year to be in line with inflation? Can this increase be cancelled by the contributor? Are there any discounts on premiums paid in advance? Can lump sum payments be made into the account from time to time?
- ☐ What are the tax implications? Are contributions tax deductible?
- ☐ If you, an employer, are willing to make contributions, can you do so?
- ☐ Under whose name can the policy be registered? Is a record given of membership details and contributions?
- ☐ What is the stipulated retiring age?
- ☐ Can money be taken out before retirement age? Can you, a worker, draw on the cash in times of need?
- ☐ Is death and/or disability cover included? What do these mean? Does the company make a will at no extra charge? What other benefits can be enjoyed, for example burial cover? Does burial cover include family members?
- ☐ If you, a worker, become unemployed, is there a bridging facility between jobs? Does the account remain in force, earning interest until you have found another job, or will unemployment result in loss of pension rights? How many months are allowed for not making payments? Can the policy be reinstated once it has lapsed because of non-payment of premium? Are you still covered by death and disability cover over this time?
- ☐ Can the policy be transferred from one employer to another?
- ☐ What amount of the pension is eventually paid out in relation to the contribution? How flexible are payments on retirement? Can the money be taken out as cash in one lump sum? Can any portion of the cash be withdrawn and the remainder be left to provide for monthly cash withdrawals for life? Or can you, a worker, choose to get monthly payments?
- ☐ Are you, a worker, familiar with all aspects of the scheme? Do you understand how it works?

## OTHER FORMS OF INVESTMENT

Ensure that money is invested in areas which provide the best returns. Workers can make monthly contributions to a savings account or take out subscription shares and unit trusts.





## Investment in Property, Housing

Most people want a home of their own to which they can retire, but homelessness is often a reality for paid domestic workers. Many cannot afford to buy a house to live in, and have been dependent on the accommodation provided for by an employer. Investment in property and/or housing while working is therefore important as a way of providing some security for old age.

The laws and procedures about property and housing are complicated. The township manager will give advice on what steps need be taken to buy or build a house, and to purchase land (on leasehold or freehold title). It is advisable to contact an advice office if you have further queries.

If a worker qualifies to buy a house, loans are granted by some financial institutions (banks and building societies). However, interest must be paid on the loan and this puts up the final cost of the house. A deposit is needed in order to be eligible for a housing loan. It is also important to know what subsidies on repayments and loans are provided by the government. If an employer helps with payments, she or he need be clear on whether she or he can provide a housing allowance or enter into or endorse a contract for a worker.

There are self-help housing schemes which help workers to buy and build houses, but most are for clients with higher salaries. If dealing with such agencies, ensure that they have a good reputation.

### TO YOU THE WORKER

It is your responsibility to look into the position of housing. Discuss your position with an employer so that she or he is aware of your needs.

If buying a house consider possibilities of taking out an insurance policy for the house, particularly in case of damage caused by fire.

### TO YOU THE EMPLOYER

Apart from the possibility of buying land and/or a house for a worker, there are a number of alternatives that you can consider:

- offering a low interest or interest-free direct loan of a certain amount as deposit for a house or for improvements to an existing house
- providing a loan at a lower interest rate than the market rate
- agreeing to pay a portion of the interest repayment on a bank or building society loan
- making monthly contributions into a savings account so that a worker can save for a deposit
- serving as guarantee on a deposit.

Whatever you do, do it in consultation with a worker.




---

## PLACEMENT OF PAID DOMESTIC WORKERS

There are various agencies and organisations throughout South Africa that are involved in the placement of paid domestic workers. Usually the service offered is free for a worker and an employer is asked for a donation or fee, but sometimes a worker is asked to pay a small fee.

Workseekers are usually screened, and the organisation asks for personal details such as I.D. number, education, previous job history, references, skills, and what work a worker is looking for. Employers can also be asked to fill in forms or be interviewed, and give details of the work they are offering.

Some organisations suggest that a worker and an employer sign a contract. Others simply bring a worker and an employer together.

### **BEWARE OF SOME TEMPORARY EMPLOYMENT AGENCIES WHICH . . .**

- ask a worker to hand over a (sometimes high) part of their wages and, at the same time, charge an employer
- say that they will provide uniforms and pay for transport, but do not
- want to stamp a worker's I.D. book - what for?

*Consult your local SADWU or advice office and the Yellow Pages telephone directory for names of employment agencies in your area.*

*Use the newspaper to advertise.*

## **COURSES, TRAINING & DEVELOPMENT**

### **☞ TO YOU THE WORKER**

Through education and training you can improve the quality of your work life. But if you want to move from domestic work to some other kind of work, look around for courses offered which you find interesting and which will give you skills for other work.

Although there are training centres which offer courses designed for domestic work (such as cooking, baking, and child care), if possible attend educational programs such as literacy (reading and writing) or formal school classes, or other courses that will help you to become more self-sufficient and more empowered to change your life. Teach other workers skills which you have learned.

### **☞ TO YOU THE EMPLOYER**

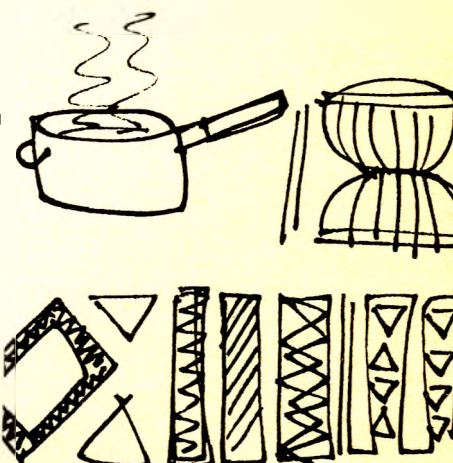
By attending courses a live-in worker is given the opportunity to move out of the home environment for a while, and to meet with other workers.

Encourage a worker to gain new skills which make her or him more resourceful and enhance her or his future work prospects. If possible, allow time off for a worker to participate in educational training. Find out where training centres are. Be aware of problems in attending courses; for example, a worker may have to walk some distance late at night and therefore be vulnerable to attack - you may be able to transport a worker to the classes, or help pay for transport.

## **CONCLUSION**

Paid domestic work will remain a sector of employment in South Africa, although the form it takes is likely to change as more employers employ live-out workers on a part-time basis. As new laws come into effect, both parties will need to know their rights and obligations. In order for a stable working relationship to develop, workers and employers should aim towards clarity of working conditions, better communication and mutual understanding.

MASISEBENZISANE / LET US WORK TOGETHER.





# RESOURCES

The following sources were used to write this booklet and some are useful for further reading:

## CONTRACT OF EMPLOYMENT

- Benjamin, P. 1980. The Contract of Employment and Domestic Workers. *Industrial Law Journal*, 1 (3).
- Bureau for Information. 1988. *The Housewife and the Domestic Servant: What Does the Law Say?* Pretoria.
- Community Research & Information Centre (CRIC). 1990. *Contract of Employment*. Johannesburg.
- Gilfillan, D. 1990. *Contract for Domestic Workers*. Pretoria: Northern Transvaal Region of the Black Sash.
- Gilfillan, D. 1990. *Review of Contracts for Domestic Servants*. Pretoria: Northern Transvaal Region of the Black Sash.
- Grahamstown Advice Office. 1990. *Domestic Worker - Focus on a Fair Deal*. Grahamstown: The Black Sash.
- Holborn, J. S. & Associates. 1986. *The Staff Book*. Johannesburg.
- Johannesburg Advice Office. 1989. *Agreement of Employment*. Johannesburg: The Black Sash.
- Manpower Committee of the Witwatersrand Chamber of Commerce and Industry. *Letter of Appointment and Employment Contracts*.
- Nasionale Vroueraad Van S.A. 1986. Domestic Workers: Your Working Conditions and Legal Rights. *N.C.W. News Supplement*, September. Pietermaritzburg.
- Pick 'n Pay Limited. *Contract for Domestic Employment*.
- South African Domestic Workers' Union (SADWU). *Domestic Workers' Union Contract of Employment*.
- Van der Merwe, L. 1988. Hassles with Servants? Rather Sign a Contract. *The SA Consumer*, Second Quarter.

## HEALTH AND SAFETY

- Gilfillan, D. 1990. *The Duty of the Employer to Provide a Safe Working Environment*. Pretoria: Domestic Workers Group, Northern Transvaal Region of the Black Sash.

## LAWS RELATING TO WORKING CONDITIONS

- Bendeman, H. & M. Du Plessis. 1991. *Information Document on the Legal Position of Domestic Workers in South Africa*. Pretoria: National Manpower Commission.

## SMALL CLAIMS COURT

- Department of Justice. *Small Claims Court: Institute your Own Claim*. Pretoria.
- Eckersdorff, L. & D. Durrant. 1990. *Small Claims Court Report Durban*. Durban: Natal Coastal Black Sash.
- Martin, K. 1989. Using the Small Claims Court as a Short Term Strategy in the South African Domestic Workers' Union's Struggle for Appropriate Legislation. *South African Discourse*, 1 (1), August.
- The Black Sash. 1990. *The Small Claims Court and You*. Johannesburg.
- Weeks, S. 1988. Sued - by your Maid. *YOU*, 7 April.

## UNIONS

- The South African Domestic Workers' Union (SADWU). *The South African Domestic Workers Union Rate for Domestic*

Workers.

The South African Domestic Workers' Union (SADWU). *Constitution of the South African Domestic Workers' Union*.

The South African Domestic Workers' Union (SADWU). *SADWU Newsletter*, 1 (1).

The South African Domestic Workers' Union (SADWU). 1989. *Demands for Legislation*.

## VIOLENCE AND ABUSE

Kedijang, M. 1990. *'The Best Kept Secret': Violence against Domestic Workers*. Johannesburg: Department of Applied Psychology, University of the Witwatersrand.

Legal Education and Action Project (LEAP). 1990. *Your Rights and the Rightwing*. Cape Town: Institute of Criminology, University of Cape Town.

Rural Legal Services Project. 1990. *Your Guide to Farm Workers and the Law*. Books 1 & 2. Cape Town.

## PENSIONS

Bamber, D. 1985. Looking After your Domestic Servants. *Personal Finance*, October.

Schwartz, P. 1982. Madam, Can you Spare a Dime? *Fair Lady*, September 22.

## HOUSING

Nicholson, J. 1989. *Housing for Black Workers*. Durban: Natal Coastal Black Sash.

## GENERAL

Best, L. 1990. *Conditions of Employment and Benefits for Domestic Workers: the Case of Casual/Piece-rate Workers*. Pretoria: Domestic Workers Group, Northern Transvaal Region of the Black Sash.

Budlender, D. 1989. *A Fair Deal for Domestic Workers*. Cape Town: Community Agency for Social Enquiry.

Cleaver, G. 1989. The Domestic Worker and Her Child. *Compass*, 16, November.

Cock, J. 1980. *Maids and Madams*. Johannesburg: Ravan Press.

Community Resource and Information Centre (CRIC). 1989. *Information on Employer's Salaries for the South African Domestic Workers Union*. Johannesburg.

Delpont, E. 1990. A South African Dilemma? *Focus*, 16, December.

Ekitchini Collective, SADWU Cultural Group. *Ekitchini*. Cape Town: SRC Press, University of Cape Town.

Grant, S. 1987. Mobilising Maids. *Fair Lady*, 14 October.

Learn and Teach. 1982. *Domestic Worker Rights*. Johannesburg.

Nowosenetz, L. 1989. *Employer's Code of Conduct for Domestic Employment*. Pretoria.

Raphaely, C. 1988. Heat in the Kitchen. *Finance Week*, April 7-13.



*As well as the above articles, books and pamphlets, material and resources for this booklet have come from various newspaper clippings and from case studies in the Black Sash Advice Offices. Many people gave ideas; for example, Moira Maconachie, Ann Strode, Marie Dyer, Wendy Voogt, Marje Brown, Sheena Duncan, members of the Domestic Workers' Group of the Northern Transvaal Region of the Black Sash, and Advocate Lawrence Nowosenetz.*

*Representatives from organisations also made a contribution; for example the South African Domestic Workers' Union (SADWU), the Community Research and Information Centre (CRIC), employment agencies and life assurance companies.*



