

Legislature takes a step in the right direction to protect the rights of domestic workers.

In 2022, a domestic worker was attacked by three pit bulls while she was outside, taking down the washing. The woman's ears, lips, and nose were ripped off her face during the attack. Domestic workers have, during their employment suffered injuries and contracted diseases while performing their work duties without any means of compensation. Although the before-mentioned seems obvious to most, this phenomenon in our society was only re-evaluated after domestic workers successfully challenged their exclusion from the COIDA Act in the case of *Mahlagu v The Minister of Labour and Others* In 2021. Although it is commonly believed that since domestic work is performed in a home environment, domestic workers are not at risk of any injury, the Solidarity Centre confirms Injuries suffered by domestic workers include but are not limited to the following: skin lacerations and burns; bone fractures, and temporary or even permanent disablement to arms, hands, legs, and shoulders.

If you are an employer of a domestic worker, be advised that the following responsibility is bestowed upon you by the legislature because domestic workers are now considered formal employees.

In *Mahlagu v The Minister of Labour and Others*, a domestic worker, Maria Mahlangu, slipped and fell from a ladder while cleaning the window of her employer's home. She fell into the swimming pool and drowned. Her daughter (Sylvia) sought compensation for her mother's death and was told that there would be no compensation as domestic workers are not covered by COIDA. With legal assistance from SADSAWU and UDWOSA the *Mahlagu v The Minister of Labour and Others* case was launched. In 2019, Sylvia and her team approached the North Gauteng High Court to declare that domestic workers should be included in the COIDA ACT and that this act should be applied retrospectively to enable domestic workers to claim compensation. In 2020 Sylvia approached the Constitutional Court. The Court ruled that the order should have immediate and retrospective effect from 27 April 1994, the day the interim Constitution came into effect.

The Department of Employment and Labour made a publication in the Gazette dated 30 May 2023. This publication emphasises that employers should ensure their employees are covered for workplace injuries. In accordance with COIDA dome, domestic workers are formal employees; therefore, employing a domestic worker should abide by the relevant laws. COIDA will start accepting claims from domestic workers and their dependants for injuries resulting from work-related accidents. The COIDA Act identifies the “main employer” of a domestic worker. These “main employers” will be held liable for any workplace injuries sustained by the employee.

It is important to note that any employee who works more than 27 hours per month must be registered with UIF, including domestic workers. If you have a domestic worker, working these hours, they need to be registered with UIF as employees, and the necessary contributions must be made. Employers should also register with the Compensation fund and submit annual returns to ensure each worker is covered against occupational diseases, injuries, and death. An annual contribution is paid to the compensation fund based on the employee’s total annual earnings. Earnings include overtime; bonuses; commission; the cash value of food and quarters supplied as part of the remuneration package; fringe benefits; travel and other allowances, and any cash/kind given to an employee as prescribed in their contracts. Earnings exclude Reimbursement or non-recurring payments, intangible fringe benefits and payments to cover special expenses.

All employers need to submit their return of earnings as a matter of urgency. Failure to submit the same will lead to excessive penalties. Forms for submission can be found in the Gazette dated 30 May 2023.

To conclude, an employer under the COIDA Act is deemed anyone, including the state, who employs at least one employee. Employees include full-time workers, casual/temporary workers, and all domestic workers. Domestic workers are at risk for injury, and it is the responsibility of their employers to ensure that they are registered with the Compensation Fund and can claim for UIF. This will enable domestic workers and their dependents to have hope for a better South Africa. Hope is the first and most fundamental ingredient for any change. And so, – we have no choice – but to be hopeful.

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