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Know Your Rights

Proof 6

presented by infestation

07/02/2012

*KNOW YOUR RIGHTS?

at the workplace

*KNOW YOUR RIGHTS?

for any doubts about your rights

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BUCHANAN BOYES



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MY RIGHTS AS AN EMPLOYEE:

Can my boss fire me unfairly?

No, every employee has the right not to be dismissed unfairly. Your employer must follow the dismissal procedure as set out in the Labour Relations Act of South Africa.

Do I have the right to an employment contract?

Yes, the law requires every employer to provide their employees with a written contract of employment.

What is the legal amount of normal working hours?

The maximum amount of normal working hours is 45 hours per week or 9 hours per day.

What are the legal requirements for working overtime?

All overtime must be voluntary and may not exceed a total of 3 hours in one day or 10 hours in one week. Remuneration for overtime is 1,5 times your normal rate and twice the normal rate for working on public holidays.

MY RIGHTS AS AN EMPLOYER:

What are the steps towards a fair dismissal?

A fair dismissal should include an investigation period to establish why an employee is performing poorly. During this time the employee has the right to be heard and to be assisted by a trade union representative or fellow employee.

Do I have the right to refuse sick notes from traditional healers?

Yes, medical certificates must be issued and signed by a medical practitioner or any other person who is certified to treat patients and registered with the Health Professions Council of South Africa.

Do I have to grant my employee maternity leave?

Yes, all female employees have a right to four consecutive months of maternity leave.

Can I place my employee in a different role when she returns from maternity leave?

No, women are entitled to return to the same position of employment after their maternity leave.

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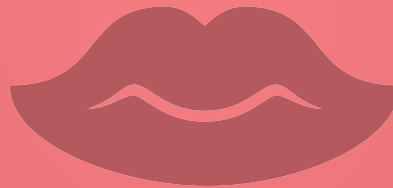
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as a *woman*

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MY RIGHTS AS A WOMAN:

Can I be discriminated against because of my gender?

No, the Promotion of Equality and Prevention of Unfair Discrimination Act ensures that all women enjoy the same rights and freedom as men.

What about gender equality in the labour market?

The Employment Equity Act encourages an even-handed representation of women and other historically disadvantaged individuals in the labour market.

Can a woman refuse to be arrested at night time in South Africa?

No, women can be arrested at any time of the day or night by either male or female police officers. Always ask a police officer to present you with his/her official police identification.

Can a male police officer conduct a body search on a woman?

No, only female police officers may perform body searches on women. If no female officer is available the police officer may ask a woman to do the search on his behalf.

What is the legal definition of rape?

Rape is defined as an unlawful and intentional act of sexual penetration with another person without that person's consent.

What steps do I take as a victim of rape?

(1) Call the Police. **(2)** Make a detailed statement. **(3)** Complete a medical examination. **(4)** Ask for counselling and trauma assistance.

What does domestic violence entail?

Domestic violence refers to all types of sexual, emotional, verbal, economic and physical abuse within a domestic relationship. Intimidation, harassment, stalking and any other controlling abusive behaviour are also recognised as domestic violence.

What steps do I take as a victim of domestic violence?

(1) Note when and where the abuse occurs. **(2)** Go to your nearest police station and lay a criminal charge against the abuser. **(3)** Ask for an "Application for Protection Order" at your nearest magistrate's court.

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as a *motorist*

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MY RIGHTS AS A MOTORIST:

Can I be arrested at a roadblock for an outstanding traffic fine?

Yes, but only if a police officer can present you with an authorised warrant showing the details of your outstanding fine.

What happens if a police officer threatens me at a roadblock?

Any form of bribery or threat from a police officer at a roadblock is illegal. Report the incident to your nearest police station.

Can a police officer search my vehicle without a warrant?

Yes, any member of the police may search your vehicle or the owner of a vehicle at a roadblock. If you do not want your vehicle to be searched you can insist on a search warrant to be presented.

Do I have to carry a red triangle in my car?

Only if your vehicle's initial registration falls on the 1st of July 2006 or any date thereafter.

When is it illegal to drive with my fog lights on?

Fog lights should remain switched off during daytime unless visibility is poor.

Can I drive around with a copy of my driver's licence?

Yes, as long as it is a recent, certified copy of your original driver's licence.

What is the legal amount of alcohol you're allowed to have before driving?

The legal alcohol limit in South Africa is now 0.05 gr per 100 ml of blood, which is less than two small beers.

Do I have to wear a seatbelt while driving?

Yes, according to the National Road Traffic Act all persons occupying a seat in a motor vehicle fitted with seatbelts must wear their seatbelts while driving on a public road.

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MY RIGHTS AS A INDIVIDUAL:

Can my citizenship be taken from me?

No, an individual's citizenship is protected and cannot be taken away from him/her.

Does the law prohibit forced labour?

Yes, our constitution prohibits any form of slavery or forced labour.

What is the minimum age requirement for employment?

No person may employ a child that is under the age of 15.

Can a police officer search my home without a warrant?

No, you have the right to privacy. Your home may not be searched without a court order.

Do I have the right to strike?

Yes, every worker has the right to strike.

What type of speech is excluded from our freedom of speech and expression legislation?

Freedom of expression excludes hate speech, propaganda for war, or speech that encourages violence and discrimination.

What does 'hate speech' imply?

Hate speech encourages discrimination or violence towards people of a different race, colour, gender or religion.

Can a police officer detain or arrest me for any reason?

No, every person has the right not to be detained without a trial, or put in prison without a good reason.

What are my rights when I'm arrested?

You have the right to keep silent and to be spoken to in a language that you understand. You cannot be forced to admit to anything. You have the right to be taken to court within 48 hours of your arrest.

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as a *property owner*

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MY RIGHTS AS A PROPERTY OWNER:

Is an 'offer to purchase' legally binding?

Yes, an offer to purchase becomes a legally binding document once it is signed by both parties and all the conditions are met.

What does the law say on subletting?

The subletting of any property requires the written consent of the landlord.

Can I prevent people from parking in the road outside my house?

No, the public road outside of your property belongs to the municipality.

Can I evict a tenant if he/she refuses to pay rent?

No, you will need a court order to evict a tenant if he/she is in breach of contract.

Should I sign a lease agreement with my tenant?

Preferably yes. A verbal agreement is binding but a written lease agreement will protect you in the case of a dispute.

What are 'rogue tenants'?

'Rogue tenants' are tenants who have a track record of breaching their lease agreement and not paying their rent.

What steps should I take if I want to evict a tenant?

If there has been a breach of contract, urge your tenant to correct the matter. If that doesn't work, lodge a complaint with the rental housing tribunal or contact an attorney.

My neighbours often play their music very loudly. Is this allowed?

No, the law states that no person shall operate or play a radio, television, musical instrument, or similar device in a way that causes noise nuisance.

What does it mean to sell a property "voetstoots"?

If a property is sold "voetstoots" it means the property is sold as it stands. The seller cannot be held liable for any defects in the property once it is sold, unless he fraudulently hid the existence of the defect from the purchaser. The position is different if the Consumer Protection Act applies to the sale.

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MY RIGHTS AS A CONSUMER:

Does the law prohibit false marketing?

Yes, goods and services may not be marketed in a manner that is false or misleading.

Can a retailer refuse to sell me something because of my race or gender?

No, all consumers have the right to equality in the consumer market.

Do I have the right to cancel bookings or services?

Yes, you have the right to cancel bookings or advance reservations. The supplier may charge a reasonable cancellation fee.

Can I demand quality services and goods as a consumer?

Yes, every consumer has the right to fair value, good quality and safe goods.

Can I claim compensation if I was injured while shopping?

Yes, if the premises were not safe or there was inadequate warning of the potential risks or hazards.

Can I claim compensation for food poisoning?

Yes, where the food provided causes you illness.

What happens if I'm hospitalised and forced to cancel a booking?

The supplier is not allowed to claim forfeiture of a deposit or cancellation fee if the person who made the booking was hospitalised or has passed away.

Can I refuse unwanted marketing?

Yes, every consumer has the right to restrict and refuse unwanted direct marketing.

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