

# EMPLOYMENT



Asylum seekers and refugees enjoy the right to seek employment. Once asylum seekers have been formally admitted into the Home Affairs system with a Section 22 permit, they can begin working. This includes the right to self-employment, and to enter into contracts and leases.

Employers may not discriminate against asylum seekers merely because their status has not been determined. In terms of employment, refugees and asylum seekers are protected by most of the same rights as South Africans.

## THE BILL OF RIGHTS: - The Right to Dignity and Collective Labour Practices

KNOW YOUR  
EMPLOYMENT  
RIGHTS



- The right of refugees to seek employment stems from section 10 of the Bill of Rights, which states that 'Everyone has inherent dignity and the right to have their dignity respected and protected.'
- Section 23 of the Bill of Rights also states that 'everyone' has the right to fair labour practices. This section mostly pertains to unions, striking, and collective bargaining

## An Appointment Slip vs. an Asylum Seeker Permit

- ⇒ Persons with section 23 permits, or appointment slips only, do not qualify for employment.
- ⇒ Persons with section 22 and 24 asylum seeker and refugee permits do qualify for employment.
- ⇒ The right to employment for asylum seekers and refugees is limited by Section 22 of the Constitution and implementing legislation.

## Other important employment legislation that applies to refugees and asylum seekers:



working with refugees to build new lives

- Labour Relations Act 66 of 1995. The Labour Relations Act governs relationships between employees and workers. It emphasizes fairness, stresses rights, and facilitates dispute resolution processes.
- Basic Conditions of Employment Act, 1997. The Basic Conditions Act spells out very important protections, including paid leave, sick leave, overtime, holiday pay, payslips, and lunch breaks

**For Refugees, the document granting refugee status is proof of the right to work.  
For Asylum seekers, the asylum seeker permit is proof of right to work**

## DISPUTES

The two main bodies for protecting the employment rights of asylum seekers and refugees are the **Commission for Conciliation, Mediation, and Arbitration (CCMA)** and the **Department of Labour**. Generally, the Department of Labour primarily handles wage disputes and the CCMA addresses work related claims and unfair dismissal.



- Employers that knowingly hire undocumented workers may not fire or mistreat their workers.
- An oral contract or contract by performance is enough to grant protection to the workers.
- An undocumented asylum seeker enjoys rights at the CCMA. (However, an undocumented asylum seeker should report as often as possible to a Refugee Reception Office to receive documentation.)

**If a refugee or asylum seeker is clearly more qualified than another applicant, a job-seeker may seek recourse at CCMA.**

**This is very difficult for asylum seekers and refugees because, as foreigners, they do not fall into BEE categories and do not have legal hiring preference.**

