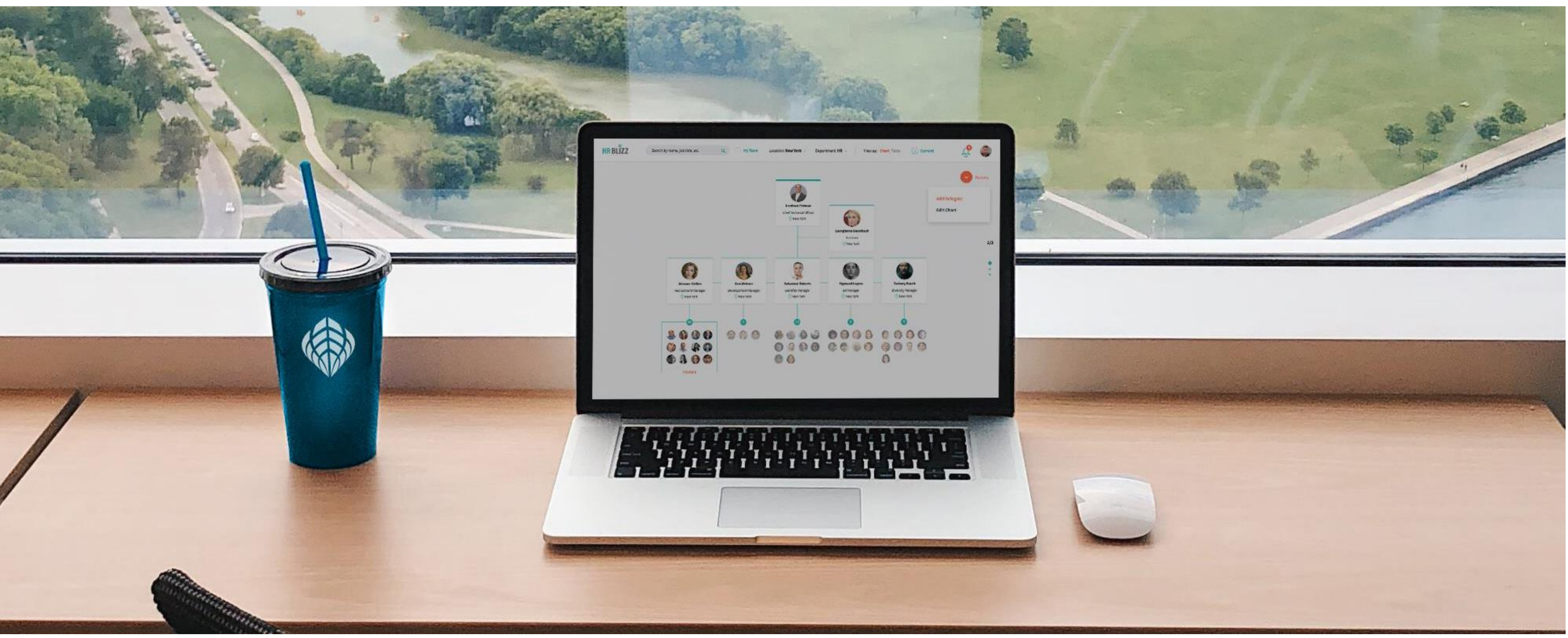
Simplifying Employment
Tasks Worldwide

Payroll & Tax Highlights

2022 Global Payroll Country Guide for South Africa



SOUTH AFRICA

28 January 2022

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Thank you for trusting Mercans to outsource your HR and Payroll functions. We propose HR consulting services, actionable solutions, and cost-effective global payroll processing tools to energize your human capital management in real-time and augment your performance. We are dedicated to becoming your business growth facilitator.

Global Payroll Solutions – Boost your HR brand and employee satisfaction
Rationalize your HR budgets, monitor your data, and optimize your global payroll tasks in real-time. Systematize processes and streamline HRM lifecycles with HR Blizz™, our unified SaaS platform, to ensure your employees are paid accurately and on time.

PEO/GEO Services – Easily hire, deploy and manage your workforce abroad
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Mercans at a Glance

160+ Countries	**20** Years of Success	**850+** Payroll and HR Specialists
8k+ Clients Worldwide	**97%** Client Retention Rate	**1.5X** Annual Revenue Growth
95k+ Largest Single Country Payroll	**9M+** Pay Slips per Annum	**0** Security Breaches

Number one for outsourced payroll services, we are endorsed by international authorities.

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Mercans has the highest industry quality and IT security certificate

CERTIFIED ISO 9001:2008 COMPANY

International Organization for Standardization ISO 20000

ISO ISO/IEC 27001:2013

OWASP Open Web Application Security Project

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South Africa – Renewed Government Policies Driving High Investment.

Investment in South Africa can open the gateway to a robust market within its borders as well as to the entire African continent of a billion people. The geographic location of SA provides a strategic advantage as the key to one of the most sophisticated, diverse and promising markets in the world. The South African government is transforming the economic policy to boost employment.

Restoring investor confidence and encouraging private sector investment are the primary objectives of the growth enhancing reforms in SA. The projected economic growth of 2.1% in 2021 from 1.5% in 2019 drives positivity in the market.

Being active as a member of G20,BRICS, and IBSA, consolidating global economic relations is a central theme of South Africa's foreign policy. DIRCO is recalibrating the policies for international businesses. While SADC is emphasizing to attain global competitiveness of SA in terms of friendly investment ecosystem.

Investment growth is projected to rise from 1.5 per cent in 2019 to 3 per cent in 2021. The Investment Summit affirmed South Africa as an attractive investment destination, with R300 billion in investments pledged across a variety of sectors. President's investment envoys yielded another $28 billion in investment pledges.

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Doing Business in South Africa

Entity Registration & Incorporation Requirements

It is simple and economical to set up a private company in South Africa. Lenient regulatory measures and policy reforms facilitated the ease of doing business.

The requirement of corporate governance is fewer for private corporations in SA. The following are the major highlights:

- Private companies can be established with only one director.
- Appointing a company secretary is not necessary for a private company.
- An annual general meeting is not mandatory.
- A private company may not appoint an auditor unless it clears the public interest test in consonance with the Companies Act, 71 of 2008(the Companies Act).
- Registering with Companies and Intellectual Property Commission (CIPC) is not necessary for all businesses.

CIPC is generally useful when businesses want to invest in the government and formal sector.

Businesses registering with CIPC can derive certain types of government support. The chances of tax benefits and lowered tax rates than individuals are among the benefits of registration with CIPC. It is mandatory for any business to register with the South African Revenue Services (SARS). Businesses are liable to all prescribed taxes if turnover exceeds the predefined threshold. The process of setting up a company in SA can be summarized as follows:

- Reserve the company name
- Registering the company with CIPC
- Opening a bank account
- Register for income tax and withholding taxes (PAYE and SDL)
- Register for VAT
- Register the company with the Unemployment Insurance Fund (UIF)
- Register employees with the compensation fund.

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Types of Business entity

SA is a globally competitive market. CIPC allows the following types of business entities for doing business in South Africa:

- Private Company
- Public Company
- Personal liability company
- Business Trusts
- Sole Proprietorship
- External company (branch of a foreign company)

Private Company

CIPC allows incorporation of private companies with one at least one director or one incorporator. A private company in SA may not offer shares to the public. All companies must set out the rules agreed by the shareholders for management of the business in the Memorandum of Incorporation (MOI). Private companies may register with a standard or customized MOI. The standard MOI is provided by the law and is available with CIPC. Companies can customize the MOI imposing certain conditions while waiving some others. Generally, a legally qualified person or professionals with company secretarial knowledge are required to prepare a customized MOI.

Public Company

A public company is a company that may offer its shares to the public, but is restricted in its right to make pre-emptive share offers. Public companies must have at least three directors. Only public companies may be listed on the Johannesburg Securities Exchange. Public companies must be audited and must produce audited financial statements which are tabled with their shareholders annually. Depending on the size of the public company, the company may also be required to have an Audit Committee and a Social and Ethics Committee.

Personal Liability Company

In a personal liability company, the directors and past directors (where applicable) are jointly and severally liable together. They are liable with the company for any debts and liabilities arising during their periods of office. The company need to have a registered address (office) within the Republic of South Africa. It's MOI restricts transferability of shares to the public. It is not compulsory for a personal liability company to appoint a company secretary. Audit is necessary for a personal liability company if it holds assets for another party in excess of ZAR 5 million.

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Business Trust

A business trust in South Africa can be used as a trading trust, asset-protection trust, charitable trust and special trust. There are three types of business trusts in SA: ownership trust, bewind trust and curatorship trust. In an ownership trust, the founder or settlor transfers ownership of assets or property to a trustee(s), which is to be held for the benefits of defined or determinable beneficiaries of the trust.

In a bewind trust the founder or settlor transfers ownership of assets or property to beneficiaries of the trust, but the trustees control the assets or property. Curatorship trust is where trustee(s) administers the trust assets or property for the benefits of a beneficiary that doesn't have the capacity to do so.

Sole Proprietorship

A sole proprietorship is a business that is owned and operated by a natural person (individual). The sole proprietorship is not a legal entity. The business has no existence separate from the owner who is called the proprietor. The owner must include the income from such business in his or her own income tax return and is responsible for the payment of taxes thereon. A sole proprietorship can operate under the name of its owner, or it can do business under a fictitious name. The fictitious name is simply a trade name, and it does not create a legal entity separate from the sole proprietor owner. Only the proprietor has the authority to make decisions for the business. The proprietor assumes the risks of the business to the extent of all of his or her assets whether used in the business or not.

External Company (branch of a foreign company)

An external company or branch of a foreign company must register with CIPC within 20 business days after it first begins to conduct business. The company must meet the legislative and definational requirements that are directed by the Companies Act 2008 of SA. The external company must maintain at least one office in SA continuously. CIPC will assign a unique registration number to the company and maintain a register. An external company must follow one or more of the following within the republic of SA:

- Holding shareholders meeting and conducting the internal affairs of the company
- Maintaining any bank or other financial accounts
- Establishing offices and registration of the company's own securities
- Acquiring any debts, mortgages, or security interests in any property
- Collecting any debt, or enforcing any mortgage or security interest
- Acquiring interest in any property
- Entering into contracts of employment.

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General Registration Requirements

The general steps to reserve a company name in SA are as follows:

- Determine at least two alternative names of the enterprise
- Use the CIPC website (http://www.cipc.co.za/) to search the name and ensure that another enterprise did not reserve the preferred name
- Reserve the preferred the name if its availability is confirmed the CIPC
- website
- Await for the registration number for proposed enterprise.

The general set of documents required for registering a company in South Africa are as follows:

- A valid passport of the person registering the company
- Police clearance certificates from the country or countries where the person have resided in the last consecutive period of 1 year
- A documented business plan clearly defining the feasibility of the business
- A proof or undertaking that confirms the full-time employment of at least 5 permanent residents of South Africa
- A written agreement with details of partners and directors and their residential status in South Africa (if the application is on an investment in existing business)
- A certificate of confirmation that at least ZAR 2.5 million in cash or a capital contribution of at least ZAR 2.5 million or a combination of cash and a capital contribution is available.

Accounting and Reporting

Any company in SA must keep accurate and complete accounting records in one of the official languages of the Republic. The record must satisfy the company's obligations in terms of the Companies Act 2008 or any other law with respect to the preparation of the financial statement. The accounting records must be accessible from the registered office of the company. CIPC may issue a compliance notice to a company in respect of any failure by the company to comply with the requirements.

The company must prepare the annual financial statement within the six months after the end of its financial year The annual financial statements of a company must include the following:

- Auditor's report, if the statements are audited
- Report by the directors with respect to the state of affairs, the business and profit or loss of the company, or of the group of companies. The report is to be presented at the first shareholders meeting after the statements have been approved by the board.

Banking

The applicant must submit proof of the directors' identity and the original company documents to open a bank account in SA. following the Know Your Customer ("KYC") requirements in the Financial Intelligence Centre Act No. 38 of 2001 will put the process on a fast track. There is no charge for opening a bank account. The procedure generally takes a single working day on an average.

Working Week

The Basic Conditions of Employment Act (BCEA) allows a maximum of 45 hours normal working time in a week in South Africa. It is 9 hours per day for five-day working weeks and 8 hours per day for working weeks more than five days, excluding a lunch break. Lunch break is to be provided after 5 hours of continuous working time. Statutory lunch break is 1 hour, which may be reduced to 30 minutes by a mutual agreement between employee and employer. The employee is under no obligation to work more than 45 hours per week.

Overtime

All overtime work is voluntary. Overtime work is allowed only by a mutual agreement between employer and employee. Maximum permissible overtime is 3 hours on any one day or 10 hours in any one week. The remuneration must be at least 1.5 times the normal wage rate except for Sunday work and work on public holidays. On such days, the remuneration must be twice the normal wage rate. All hours worked in excess of the employee's normal hours of work will be regarded as overtime hours. Overtime is not compulsory, and employees can refuse to work overtime on short notice.

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Basic Facts

Official State Name	The Republic of South Africa
Population	58.78 million
Capital	Pretoria (administrative), Cape Town (legislative), Bloemfontein (judicial)
Major Languages	English, isiZulu, isiXhosa, isiNdebele, Afrikaans, siSwati, Sepedi, Sesotho, Setswana, Tshivenda, Xitsonga
Currency	Rand (ZAR)
Main Industries & Export Articles	Machinery and equipment Electronics and telecommunications Pharmaceuticals and other chemicals Refined petroleum products Chemical Products
GDP Growth	0.2% (2019)
Internet Domain	.za
International Dialing Code	+27
Dates & Numbers	Dates are usually written in the dd.mm.yyyy format.

Tax & Social Security

For Businesses and Employers

Every business liable to taxation (under the Income Tax Act, 1962) is required to register with SARS as a taxpayer. SA has a residence-based system of taxation. Non-residents are taxed on income earned from a South African source. Businesses in SA are liable to pay the following taxes:

- Corporate Income Tax
- Dividends Tax
- Value-added-tax (VAT)
- Employee's Tax or PAYE (pay-as-you-earn)
- Skills Development Levy (SDL)
- Unemployment Insurance Fund (UIF)

Corporate Income Tax

A resident company in South Africa is subject to a corporate income tax (CIT) based on its worldwide income. This tax is irrespective of the source of income. On the other hand, a non-resident company in South Africa is subject to the CIT based on the source income in South Africa. Business details must be updated before filing the tax.

The time for payment of tax are as follows:

- First payment – within six months from the beginning of the year of assessment
- Second payment – on or before the last day of the year of assessment
- Third payment – seven months after the year of assessment for taxpayers with February year-end and six months after year of assessment for all other cases.

Tax on Assessment issued by SARS must be paid within the period specified in the notice.

CIT for both resident and non-resident companies in South Africa is fixed at a flat rate of 28% (for the tax years ending between 1 April 2020 and 31 March 2021). CIT is applicable (but not limited) to the following companies under the Income Tax Act, 1962:

- Listed public companies
- Unlisted public companies
- Private companies
- Close Corporations
- Co-operatives
- Collective Investment Schemes
- Small Business Corporation

- Body Corporates
- Share Block Companies
- Dormant Companies
- Public Benefit Companies

CIT for small business corporations

The tax rates for small business corporations (companies with gross annual income of not more than 20 million ZAR/with only one natural person as members or owner) in South Africa are as follows:

- 0% on the first ZAR 83,700 of taxable income.
- 7% on taxable income of more than ZAR 83,700 and less than ZAR 365,000.
- 21% on taxable income of more than ZAR 365,000 and less than ZAR 550,000.
- 28% on taxable income of more than ZAR 550,000.
- CIT for mining companies other than gold mining are subject to 28%. For gold mining companies special rates of normal tax that is based on a standard formula applies.
- CIT for long-term insurance companies is based on the 'five-funds approach'.

Five-funds approach: In this approach, the policies are divided into five funds depending on the nature of the beneficiary. Assets are allocated to each fund as per the risk carried by the fund. Each fund is considered as a unique tax paying entity. The taxes for each of them depend on the type of fund as follows:

- Individual policy: 30%
- Untaxed policyholder: 0%
- Company policy holder, risk policy and corporate funds: 28%.

CIT for very small companies

Companies with an annual turnover of less than ZAR 1 million a year are liable to pay a turnover based presumptive tax. CIT for such companies range from 0% to 3%, as per the annual turnover.

Dividends Tax

Dividend Tax of 20% (unless an exemption or reduced rate is applicable) for any dividend paid on or after 22 February 2017, irrespective of declaration date by the beneficial owner of the dividend. The Dividend Tax is withheld from the dividend payment and paid to South African Revenue Service (SARS) by a withholding agent.

The responsibility of paying the tax is, however, completely on the entity liable for the tax should the withholding agent fail to withhold the correct amount of the tax. If the dividend consists of a distribution of assets in specie that results in the liability for the tax falling on the company itself, the agent may not withhold the tax from the dividend payment.

Dividends Tax is levied on payment of a dividend by:

- South African tax resident company
- Foreign company whose shares are listed on the South African Exchange

Dividend payments by headquarter companies are not subjected to Dividends Tax.

Dividends Tax is to be paid on any dividend declared and paid from 1 April 2012 onwards. The withholding agent should pay the withheld tax to SARS on or before the last day of the month of the following month in which the dividend was paid. Penalties and interest may be levied for late payment as well as late submission of dividends tax returns.

Local income taxes

No local government taxes on income apply to either SA-resident or non-resident companies.

Value Added Tax (VAT)

VAT is mandatory for businesses in SA if the taxable supplies made or to be made is more than ZAR 1 million in any consecutive twelve months period. If the taxable supplies made in the past period of 12 months is more than ZAR 50,000 and less than ZAR 1 million, the business may choose to register voluntarily. VAT of 15% is levied on supply of goods and services and on importation of goods. The customs collect the VAT on importation of goods.

Employee's Tax or PAYE (pay-as-you-earn)

Employers in SA are required to register with SARS for Employee's Tax or PAYE. Employee's Tax is to be deducted by the employer from an employee's paid or payable remuneration. PAYE is the process of withholding the tax from employee remuneration. The deducted amount must be paid by the employer to SARS monthly by completing the Monthly Employer Declaration. It must be paid within 7 days after the end of the month during which the amount was deducted. The tax amount is fixed by SARS.

Skills Development Levy (SDL)

A tax of 1% of the total amount paid in salaries to employees (including overtime payments, leave pays, bonuses, commissions, and lump sum payments) are to be withheld by employers as SDL. The amount deducted or withheld by the employer must be paid to SARS monthly. SDL is a levy imposed to encourage learning and development in South Africa and is determined by an employer's salary bill. The funds are to be used to develop and improve skills of employees.

Unemployment Insurance Fund (UIF)

Unemployment Insurance Fund (UIF) is paid by employers to SARS monthly. The amount is fixed at 1% of the remuneration paid by the employer and the employee. UIF provides short-term relief to workers when they become unemployed or are unable to work.

Personal Income Tax

The personal income tax rates are progressive up to 45% in South Africa. Residents of South Africa are based on worldwide income. Non-residents are taxed on South African source of income and on capital gains from immovable property and assets of a permanent establishment in South Africa.

An individual is considered resident in South Africa if she or he

- Is an ordinary resident of SA
- Physically present in SA for more than 91 days in a current tax year and in each of the five preceding tax years.
- Physically present in SA for a period of 915 days in the aggregate of five preceding tax years.

A person deemed to be exclusively resident in another country for the purpose of the application of a tax treaty SA and such a country is not considered as a resident.

The following are the taxable incomes in SA:

- Remuneration (income from employment), such as, salaries, wages, bonuses, overtime pay, taxable (fringe) benefits, allowances, and certain lump sum benefits
- Profits or losses from a business or trade
- Income or profits arising from an individual being a beneficiary of a trust
- Director's fees
- Investment income, such as interest and foreign dividends
- Rental income or losses
- Income from royalties
- Annuities
- Pension income
- Certain capital gains

Personal Tax is levied on only 40% of the capital gain. Normal tax amount is applicable to individuals. Non-residents are subjected to the following capital gains tax:

- Immovable property or any interest or right of whatever nature of the non-resident individual to or in immovable property situated in South Africa.

- Equity shares in a company when 80% or more of the market value of those equity shares, is attributable directly or indirectly to immovable property in South Africa.
- A vested interest in a trust if 80% or more of the market value of that vested interest is directly or indirectly attributable to immovable property in South Africa.
- The assets of any permanent establishment of a non-resident in South Africa.

Tax deductions and allowances are granted on the following:

- Contribution to pension and retirement annuity funds
- Certain donations and travels
- Expenses in motor vehicles
- Deductions on medical expenses are converted to medical tax credits.

Social Security/UIF

No significant social security taxes are levied in South Africa. However, employees and employers are both obligated to make contributions to an unemployment insurance fund at the rate of 1% of gross remuneration. The employee's contribution is withheld by the employer. Both contributions are limited to a remuneration of ZAR 17712 per month per employee but is calculated on a monthly basis on the remuneration of that specific month.

Pension Contributions

Any employee contributions (employee and deemed employee contributions) towards a retirement fund (pension, provident and retirement annuity) are tax deductible, subject to a limit which must be applied by the employer. The employee may contribute more than these limits, but he will only receive the tax benefit up to the statutory limit. Any contributions made by the employee more than the limits will reduce the taxable value of any lump sum paid in future.

The total annual deduction for any contributions (including buy-back & voluntary contributions) towards retirement funds are limited to the lesser of:

- 27.5% of remuneration (excluding severance benefits and retirement fund lump sums), or
- R350 000.

The above limit is applied to the employee contributions (employee and deemed employee contributions) towards all retirement funds and not separately to each fund.

In the case where the employee has contributed towards a retirement annuity and provided proof to the employer (private retirement annuity), the employer may give the benefit to the employee, at the option of the employer.

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Reporting

All taxpayers in SA are required to submit an annual income tax return to SARS. The tax year is considered from 1 March to the last day of the month of February of the consecutive year. SARS announces the tax season every year, which is generally from 1 August for branch filers and 1 July for eFilers.

Payroll

South Africa has a policy of national minimum wage. As per the policy, the national minimum wages are as follows:

- National minimum wage of ZAR 21.69 for each ordinary hour of work
- Farm workers are entitled to a minimum wage of ZAR 21.69 per hour
- Domestic workers are entitled to a minimum wage of ZAR 19.09 per hour
- Workers employed on an expanded public work program are entitled to a minimum wage of ZAR 11.42 per hour

The income tax act 52 of 1962 (section 12H) provides additional tax deductions from companies and businesses to provide learnership allowance employers for qualifying learnership agreements. The deductions are intended as an incentive for employers to train employees in a regulated environment to encourage skills development and job creation. It consists of an annual allowance and a completion allowance. Effective from 1 October 2016, the amount of allowance depends on the National Qualification Framework (NQF) level of the learner before entering into the learnership agreement.

Employment Law

South Africa follows a policy of minimum wage as per the National Minimum Wage Bill, the Labour Relations Bill and the Basic Conditions of Employment Bill. The minimum wage for each ordinary working hour in SA is ZAR 21.69. As per the latest amendments, published in the Government Gazette, the new rates are applicable from 01 March 2020. The new minimum wage for farm workers is ZAR 21.69 per hour. Domestic workers are entitled to a minimum wage of ZAR

19.09 per hour, while workers on an expanded public works program are entitled to a minimum wage of ZAR 11.42 per hour. Employees are prohibited from working more than 45 hours per week. On working hours that exceed 45 hours, the employee earns overtime remuneration at 1 and ½ times of normal wage.

Leave

Every employee is entitled to a paid leave of 15 days in the annual leave cycle, which is of 12 months. The leaves are to be used within 6 months on the leave cycle period. All employees are entitled to 30 days of paid sick leave in a cycle of three years. However, the leaves are not to be construed as 10 days per year. The sick leaves can be availed anytime during the 3 years.

Female employees are entitled to four months of unpaid maternity leave. However, the employee can receive full or part salary during the period at the employer's discretion.

An employee who is a parent of a child will be entitled to 10 consecutive days' parental leave. This applies irrespective of the gender, which means it would include parents in same sex relationships.

For employees who are employed for a period of four months and longer, and working for at least 4 days a week for the same employer is entitled to Family responsibility leave. It is 3 days of paid leave in every leave cycle. The leave can be granted to the father of a newly born, if the child is sick or an event of death of the employee's spouse, parent, child, grandparent, grandchild or sibling.

Termination

The contract of employment can be terminated on following conditions:

- completion of the agreed period of employment
- completion of the specific task
- on notice duty sanctioned by either party
- on an event of material breach on the part of either party

- repudiation
- mutual agreement
- death of either party
- insolvency of the employer
- impossibility of performing the task and obligation.

An employee can be also terminated on following grounds:

- misconduct
- poor performance
- operational requirement of the employer.

Notice Period

The notice period is usually agreed to between the employer and the employee. The period generally depends on the requirement of the job or the time required for replacing the employee.

The standard notice periods are as follows:

- One week if the employee has been employed for six months or less
- Two weeks if the employee has been employed for over six months to a year
- Four weeks if the employee has been employed for over a year.

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Immigration

Non-resident entrepreneurs or investors applying for business visas must have a fund of at least ZAR 5 million (approximately USD 2,96,400). This investment fund can take the form of cash or capital including equipment, materials, or product. However, certain industries do not require the minimum amount for investment. These industries are:

- Clothing manufacturing
- Textile manufacturing
- Information and communication technology; such as software production, web design, and networking
- Chemicals/bio-technology
- Agro Processing industries which deal with metals and minerals refining
- Automotive manufacturing
- Tourism.

All applicants require a certificate from an accountant registered with the South African institute of Chartered Accountants for the confirmation of the required fund. The eligibility requirement for South African Business visa are as follows:

A completed copy of the South African Temporary Residency Permit Form

BI-1738

- A valid passport
- A signed agreement stating that a minimum of 60% of all employees of the business to be established or invested in will be, or currently are, South African citizens or permanent residents; and will be, or currently are. employed on a full time basis
- A signed agreement stating that the applicant will register with the following organisations:
    - The South African Revenue Service
    - The Unemployment Insurance Fund
    - The Compensation Fund for Occupational Injuries
    - The Companies and Intellectual Properties Commission (only required for certain industries)
- Any appropriate professional organisations, if required for their industry
- A vaccination certificate if the applicant is planning to travel from or through a Yellow Fever risk area
- Police/criminal record certificates from all countries which the applicant has spent more than 12 months in since the age of 18

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What Makes Mercans your HR and Payroll Partner of Choice?

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Everywhere for Everyone

We are a borderless people engagement enabler, driven by technology and innovation. We deliver bespoke human capital management services and global payroll solutions to empower businesses across 110+ countries regardless of their organizations' size and their industry. We pride ourselves on being global people experts with a striking local presence, committed to making your teams happy, and ensuring the consistent and sustainable growth of your organization.

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A Revolutionary Service Delivery System

Say goodbye to third-party service providers, offshore call centers, fragmented data, and endless chains of sub-contracts.

Mercans cloud-based SaaS Products, HR Blizz™ & Mesaar™, combine the performance of proprietary technologies with a human touch. Cost-effective, they are fully-compliant self-service tools, packed with smart built-in features for your peace of mind. All your data are integrated into single interfaces accessible from everywhere and on any device.

Trailblazing Cloud-Based SaaS Products

HR Blizz & Mesaar, our Software-as-a-Service platforms, both propose a preconfigured API integration capability with all the major global HRMS platforms, including SuccessFactors, Workday, Oracle HCM, and MS Dynamics. All Mercans systems and processes are GDPR compliant, ISO 9001, 20000, 27001 certified, and SOC 1 and SOC 2 audited. A registered Finpro expert, Mercans is also a member of the Global Payroll Association and the Global Payroll Management Institute.

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