

# LABOUR SERVICE PROVIDER CHECKLIST

The agricultural industry has recognized the need to encourage the participation of labour service providers (temporary employment services and/or independent contractors) working within the agricultural industry, to adhere to ethical trade and compliance. The industry supports labour service providers committing themselves to the principles contained in the SIZA Social Standard. Labour service providers and producers who contract their services, are jointly liable for ensuring that the fair labour practices are complied with, regardless of whether workers are employed directly by the producer or by the labour service provider. It is therefore the responsibility of the producer to ensure that their labour service provider has appropriate systems in place in order to demonstrate compliance.

A checklist was developed for measuring compliance of the labour service provider as a support for producers who use the services of labour service providers. However, if a labour service provider submits to a third-party SIZA social audit and allows the producer access to the audit results, this should be sufficient evidence of compliance for the producer and there should not be a need to complete this checklist.

## *Section 2: Management Systems*

### Principle Statement:

*The owners and all levels of management shall define and document the business's policy on ethics and fair labour practices. The policy shall include a firm commitment from senior management to implement and uphold the principles of fair labour practice in the business as well as a commitment to comply with the requirements of the SIZA Standard.*

#### CODE REQUIREMENT

#### BENCHMARK

2.1 Is the Labour service provider a registered legal entity?

The labour service provider has a registration number – e.g. Company, Closed Corporation, partnership or sole proprietor

*GUIDANCE NOTES: CIPC documents or Department of Labour registration number will be adequate.*

<p><b>2.2 Does the Labour service provider have an ethical trade policy in place?</b></p>	<p>There is policy in place that covers all of the requirements of the SIZA Standard. This is signed by the labour service provider.</p>
<p><i>GUIDANCE NOTES: This policy must contain the service providers commitment to ethical and socially responsible standards/practices and indicate a commitment to adhering to the SIZA standard.</i></p>	
<p><b>2.3 Has the labour service provider signed a service provider contract that includes a commitment to comply with the principles of the SIZA ethical trade program AND legislation?</b></p>	<p>A service contract has been signed by the labour service provider which includes his/her commitment to comply with the principles of the SIZA program and standard.</p>
<p><i>GUIDANCE NOTES: There needs to be an agreed-upon Service Level Agreement (SLA) between the producer and the labour service provider. This SLA must contain the specifics of the agreement between both parties, but it should also outline the requirements of both parties pertaining to ethical trade and responsibilities that need to be upheld to ensure compliance with the SIZA Standard.</i></p>	
<p><b>2.4 Has the labour service provider performed any kind of self-assessment that identifies non-conformances and areas for improvement in terms of the SIZA Standard?</b></p>	<p>There is some form of assessment conducted (this could be a self-assessment or part of a formal assessment performed by a labour consultant/labour service provider organization) that identifies non-conformances, areas for improvement AND includes a corrective action plan.</p>
<p><i>GUIDANCE NOTES: This needs to occur internally within the company to ensure others that the company is acting responsibly in its business practices and ensuring ethical trade principles are upheld at all times.</i></p>	
<p><b>2.5 Can the labour service provider demonstrate awareness of applicable legislation?</b></p>	<p>If the labour service provider has an office, a summary of the BCEA, SD13, OHS Act and EEA must be visible to employees OR is a subscriber to a service provider who provides advice in connection with this e.g. labour consultant; membership</p>

	with labour service providers association. Alternatively, training records demonstrate that the labour service provider has attended training on applying the law in the workplace.
<i>GUIDANCE NOTES: Employees need to be aware of the relevant legislation, but even more so, employees need to have access to the legislation.</i>	
<b>2.6 Is the labour service provider registered with SARS?</b>	Labour service providers must register their employees for UIF, SDL and VAT. It has become the employer's responsibility to make certain the staff is registered for VAT e.g. UIF; SDL; VAT etc.
<i>GUIDANCE NOTES: Request the company VAT number, along with proof that its employees are registered for VAT, UIF and SDL.</i>	
<b>2.7 Is the labour service provider registered with COIDA?</b>	The relevant number/certificate is available that demonstrates current registration with COIDA and all dues have been paid.
<i>GUIDANCE NOTES: The Compensation for Occupational Injuries and Diseases Act (COIDA) clearly stipulates that employers need to be registered with COIDA to ensure that all employees will be insured against workplace injuries. A letter of Good Standing will be issued if all fees have been paid.</i>	
<b>2.8 Can the labour service provider provide records of all people employed?</b>	There is a record keeping system in place that maintains employee records for a minimum of 5 years. This can be held on his/her behalf by a labour service provider association.
<i>GUIDANCE NOTES: This record system needs to be adequate and able to showcase recruitment procedures, keeping of employment records, records of age, any disciplinary actions etc. This recording system may be manually done, however proper oversight must be verifiable to ensure the system is adequate.</i>	

### Section 3: Forced; Bonded & Indentured Prison Labour

**Principle Statement:**

All levels of management shall ensure that employment is conducted on a voluntary basis, and not under threat of any penalty or sanctions; that workers have the right to terminate their employment and that workers are not required to lodge deposits; their identity documents or any other form of a bond (or payment) in order to obtain work.

**CODE REQUIREMENT**

**BENCHMARK**

**3.1 Have workers been given adequate employment contracts?**

An employment contract is available for each worker which clearly states the requirements for termination of service if an employee wants to resign.

*GUIDANCE NOTES: Termination must be allowed in accordance with SD13 Section 26. It is important to note here that while an employee has a right to leave when they choose, they also have an obligation to give notice. It is therefore important that the business makes this clear during the recruitment stage and, if any penalties apply, that the worker is made aware of these before entering into the contract. The assessment is aimed at the employer in this instance and so it is the employer's conduct and practice that is being evaluated.*

**3.2 Have workers been made aware of their rights and responsibilities in terms of termination of service?**

Attendance registers and/or training records are available that demonstrate that the contents of the contracts, including the termination clause, have been explained to the workers. This could include details of informal information sessions held in the workplace.

*GUIDANCE NOTES: Evidence of attendance registers. Inductions, leaflets and posters are all adequate ways to inform employees. Awareness-raising should at least occur annually.*

**3.3 Do workers have to lodge deposits or their identity documents in order to secure employment?**

Workers are normally interviewed to verify this information but if this is not possible, then documentary checks should at least demonstrate that the labour service provider does not keep original identity documents and The employer must give the farm worker a statement of the breakdown of their wages and hours worked

*Pay slip must contain the following information:*

- *employer's name and address*
- *farm worker's name and occupation*
- *Period in respect which payment is made*
- *wage rate and overtime rate*
- *number of ordinary hours worked by farm worker during that period*
- *number of overtime hours worked*
- *number of hours worked by farm worker on a paid holiday or Sunday*
- *farm worker's wage*
- *detail of any other pay arising out of the farm worker's employment*
- *details of any deduction*
- *employer's registration number with UIF and employee's contribution to the fund*
- *actual amount paid to the farm worker*

*GUIDANCE NOTES: Recruitment and associated costs must be paid for by the employer; in other words, there should be no fees levied to the worker for this process - this includes returnable deposits. If any "benefits" are provided to the worker at a cost, for example, transport, advance payment to purchase food / issue of rations, provision of bedding and so on, then these must be voluntary and there must be evidence that the worker has requested these items. In other words, these should not be automatically given to the worker when he/she is recruited but rather offered and accepted on a voluntary basis.*

*Remember that an "advance" could be misinterpreted as a form of bonded labour unless there is clear evidence to show that this was done at the request of the worker. Wherever advances are made which are intended to be paid back, there must be written proof from the worker of his/her consent. Due to the precariousness of loans, the business should only consider loans in exceptional cases. The loan system should clearly stipulate the loan conditions. Interest cannot be charged on loans if the employer is not registered as credit provider and cannot comply with National Credit Act 34 of 2005.*

**3.4 Are workers informed about the terms and conditions of employment BEFORE they are appointed?**

Workers are normally interviewed to verify this information but if this is not possible, then there should be a documentary record in place to show that workers received. Employer must supply the farm worker with written particulars of employment.

*GUIDANCE NOTES:*

**3.5 Awareness on recognising, preventing and dealing with forced labour, labour trafficking and other third party labour exploitation shall be provided to ALL those involved within the business, including all employees.**

There must exist a clear procedure that indicates what steps management, supervisors and employees would take to prevent forced / bonded labour and the steps it would take if such practices are identified within the business. There must exist evidence that senior managers, recruiters, supervisors and consultants have attended training in aspects of forced

and bonded labour. All employees must be made aware of forced and bonded labour.

*GUIDANCE NOTES: Inductions, leaflets and posters are all adequate ways to inform employees. Awareness-raising should at least occur annually.*

### **Section 4: Child Labour & Young Workers**

**Principle Statement:**

Senior Management shall not engage the services of children and shall implement all measures necessary to prevent children from being employed directly or indirectly. Where child labour is discovered, senior management shall take all measures necessary to remediate the situation taking into account the best interests of the child. Where young workers (between the ages of 15 and 17 years) are employed, senior management shall ensure that their working conditions comply with legal requirements.

**CODE REQUIREMENT**

**BENCHMARK**

**4.1 Can the labour service provider provide evidence of age for all workers?**

The labour service provider has copies of I. D's for all workers.

*GUIDANCE NOTES: Part of the recruitment process will include verification of age. It is up to the employer to determine the most suitable and practical method to achieve this but there must be clear evidence of workers' ages obtained prior to them being appointed. Legal reference: BCEA Section 47 The records must be maintained as per SD13 Section 25(3).*

**4.2 Does the labour service provider have a policy on the minimum age of workers?**

A policy is available that clearly indicates the MINIMUM age of workers entitled to work for the labour service provider.

*GUIDANCE NOTES: The policy should be simple and straight-forward and should contain 2 specific statements:*

1) *The business policy in terms of minimum age, for example: "The employment of persons under the age of 18 shall not be permitted" and;*

2) *The procedure for ensuring compliance with the stated policy, for example: "No persons shall be employed unless they're able to provide proof of age". The policy could be more specific or less specific where the determination of acceptable forms of proof of age is concerned; the best form of identity is a valid/genuine South African I.D. although this might not always be practical/possible; if this is not available, other acceptable forms of I.D. could include a school leaver's certificate; affidavit from commissioner of oaths; birth certificate, etc. In all cases, proof of age must be verified by management to ensure the documents are legal and valid.*

**4.3 Are young workers (15 to 17 years) employed?**

The labour service provider has copies of ID's for all workers. Copies of ID of children between 15-18 years must be kept for 3 years.

*GUIDANCE NOTES: It is particularly important to keep on record the starting date of the young worker in order to be able to demonstrate their age at the commencement of the employment relationship. In all cases, proof of age must be verified by management to ensure the documents are legal and valid.*

**4.3.an If the answer to 4.3 above is yes, have the young workers' contracts been signed by their legal guardians AND do the terms and conditions of their employment comply with law?**

The contracts of young workers are signed by legal guardians and the working conditions in the contracts comply with law.

*GUIDANCE NOTES: Young people are not technically entitled to enter into any contracts until they are 18 years of age. It is therefore important that where young workers are employed, the consent of their parent/s or legal guardians is obtained prior to their appointment. Young workers MAY be employed as long as the following conditions are met:*

- 1) *their terms and conditions of employment must be endorsed by a parent or legal guardian;*
- 2) *their working hours must be restricted to 35 hours per week;*
- 3) *they may not work any overtime or work between the hours of 18h00 and 06h00;*
- 4) *they may not operate heavy or dangerous machinery or handle chemicals; and*
- 5) *they must earn at least the minimum wage rate.*

In addition, it is advisable that separate records be kept for young workers in order to ensure that they are managed correctly and also in order to be able to demonstrate this.

### Section 5: Freedom of Association & Collective Bargaining

**Principle Statement:**

Senior Management shall recognize and respect the individuals' rights to freedom of association and collective bargaining without interference and shall not discriminate against or otherwise prejudice workers or their representatives.

CODE REQUIREMENT	BENCHMARK
5.1 Does the labour service provider have a documented policy regarding freedom of association and workers right to collective bargaining?	There is policy in place that states the labour service providers' position in terms of workers' right to associate and bargain collectively.

*GUIDANCE NOTES: The freedom to associate is regarded by the ILO as one of four core labour principles. In fact, it goes even further and classifies this as the MOST important labour principle. It is important to identify the role management should play in this process as the right to associate - or not to associate - rests with the worker. The onus is therefore on the worker to make use of/exercise this basic right.*

*There is however also an onus on the employer to provide the right environment in order for the worker to do this. While there is no responsibility on the employer to be directly involved in the process of organizing the labour, there is an expectation that there is at least an enabling environment which helps facilitate this process and part of this is ensuring that workers are able to enjoy their rights without consequence or interference.*

<p><b>5.2 Are any workers members of recognized trade unions?</b></p>	<p>There are records that demonstrate that some/all workers are members of trade unions.</p>
<p><i>GUIDANCE NOTES: Records must be adequate and updated regularly to ensure all information is relevant.</i></p>	
<p><b>5.3 If no trade unions are represented, is there any other form of worker representation that facilitates communication between workers and management?</b></p>	<p>There is documentary evidence that workers have elected representatives who represent their interests. For example, this could be a worker's committee with elected members that represent the interests of the workers with the labour service provider's</p>
<p><i>GUIDANCE NOTES: Communication between an employer and an employee is largely the basis of the success or failure of that relationship. Many workplace disputes arise as a result of poor communication or the breakdown in the communication process between the employer and the employee and part of the reason behind the implementation of Freedom of Association as a fundamental workplace right is to facilitate communication - between the workers themselves but also between the workers and management. It is therefore important that workers and management meet regularly to discuss issues of common concern and to try and be pro-active in addressing issues before they become disputes. Keeping records of these discussions - especially resolutions and agreements reached between the two parties - is a critical element in the success or failure of this process as it provides a constant record to which reference can be made when disputes arise. In the absence of either the meetings or the records thereof, both parties are left to their own interpretation of matters and swift, effective and amicable solutions become more difficult to achieve.</i></p>	
<p><b>5.4 Are workers informed of their rights in terms of freedom of association and the right to collective bargaining?</b></p>	<p>There is documentary evidence to show that the labour service provider has informed workers of this right. For example, this could include a record of an information session or meeting that was held where this right was explained to workers.</p>

*GUIDANCE NOTES: Perhaps the most important step that an employer can take in this regard is creating and maintaining an enabling environment. Workers that are unaware of their rights are logically less likely to exercise them or even be aware of when these rights are being infringed. It is therefore critical that employers inform their workforce about this fundamental workplace right as the first step towards providing a work environment in which these rights are not only recognized but actively upheld.*

### **Section 6: Discrimination, Harassment & Abuse**

**Principle Statement:**

Senior Management shall take appropriate measures to ensure that, as far as is reasonably practicable, the workplace is free from all forms of discrimination, harassment and abuse, ensuring that there are systems in place that provide appropriate protection for workers, and that all workers are assured of equal opportunities.

CODE REQUIREMENT	BENCHMARK
6.1 Does the labour service provider have a copy of the Employment Equity Act?	The labour service provider has a copy of the EE Act available.
<p><i>GUIDANCE NOTES: Please note that there are more stringent requirements in terms of the EEA which the labour service provider as an employer must comply with if he has more than 150 employees or has a turnover of more than R2 000 000 p/a</i></p>	
6.2 Is there a grievance mechanism in place through which workers are able to raise a complaint?	The business has a grievance procedure and disciplinary code and procedure. All employees are aware of these policies and procedures. All records of disciplinary action taken are documented and kept on file.

*GUIDANCE NOTES: To avoid arbitrary disciplinary action in the workplace it is important for all employees to be aware of workplace policies (what the rules are) and what to do when they feel aggrieved; they also need to be aware of the disciplinary process and sanction if they are in breach of business policy. Codes and procedures must be written documents; they must be in line with the law and must be explained to all employees and implemented fairly. Disciplinary actions, even verbal warnings must be documented.*

**6.3 Have workers been informed of their rights in this regard and how to use the grievance procedure?**

There are training records and/or attendance registers which show that workers have been informed about the grievance procedure and how to use it.

*GUIDANCE NOTES: It is important that workers know what to do if they are the victims of discriminatory action in the workplace. The grievance procedure must be documented and explained to workers and the channels for laying a grievance should be accessible and trustworthy. The dignity of all employees (regardless of who they are) must be respected and be aware of what procedural route to follow in cases where discrimination might be evident.*

**6.4 Does the labour service provider have a policy on Sexual Harassment?**

The labour service provider has a sexual harassment policy which has been explained to the workers.

*GUIDANCE NOTES: It must be clear that all employees understand the company's policy towards sexual harassment.*

**6.5 Does the labour service provider have a documented disciplinary procedure and has this been explained to the workers?**

The labour service provider has a disciplinary procedure in place and there are training records and/or attendance registers which show that workers have been informed about the disciplinary procedure and how to use it.

*GUIDANCE NOTES: Part of the implementation process includes informing workers of the existence and operation of the disciplinary code moreover what is expected from them in terms of discipline and performance in the workplace. The disciplinary procedure can be unique and adaptable to each particular situation and environment however it must take into consideration the guidelines established in Schedule 8 of the Labour Relations Act.*

<b>6.6 Does the labour service provider keep documented records of ALL disciplinary cases?</b>	There is documentary evidence detailing disciplinary cases (for example, records of hearings that have taken place).
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*GUIDANCE NOTES: Comprehensive records should be maintained for each and every disciplinary action. Examples of documents typically associated with the disciplinary process include (but are not limited to): Notification of disciplinary hearing - typically this also contains details about the nature of the alleged offence (charges); Minutes of disciplinary hearing (if applicable); Record of sanction applied e.g. verbal warning; Written warning; Final written warning; dismissal etc. The main point here is that these records are maintained and easily accessible.*

### **Section 7: Health & Safety**

**Principle Statement:**

Senior Management shall ensure that the working environment and facilities provided as part of the workplace (including residential facilities) are safe and hygienic and shall take appropriate measures to prevent accidents and injury in the workplace.

CODE REQUIREMENT	BENCHMARK
<b>7.1 Has the labour service provider undertaken a risk assessment that covers all activities undertaken by his/her employees?</b>	There is a documented risk assessment that covers ALL activities undertaken by the labour service provider.

*GUIDANCE NOTES: While the need for a risk assessment is not specified in the OHS Act, it is implied in Section 8 - General Duties of Employers - Subsection (2)(d) which states that employers should establish "what hazards attached to the health and safety of persons" exist as well as "establish what precautionary measures should be taken" to mitigate or minimize these risks. The need to evaluate risk in the workplace is again referred to in General Safety Regulation GN R1031 - Section 2(1). The most effective method of achieving this is by performing a risk assessment which is a logical walk through the processes that exist in the business which involve people. The risk assessment should be regarded as a "living" document - it is not something that is completed once and then not looked at again due to*

*the dynamic relationship between personnel and hazards. Regularly review the risk assessment and keep a record of these reviews as well as changes that are made as a result of the review. A comprehensive risk assessment is the blueprint for a well-managed Health and Safety system.*

**7.2 Is there evidence that the risk assessment has been implemented?**

The labour service provider should have records, for example, training records, that show that training for workers, such as spray operators has taken place which demonstrates that risks linked with these jobs are being managed.

*GUIDANCE NOTES: An example of how the risk assessment and follow up could work, would be as follows: if the risk assessment identifies that crop protection products and spraying pose a risk to the health and safety of the workforce then appropriate responses should be implemented to reduce or remove this risk; in this case it could include training of operators and handlers; ensuring workers living near the spraying area are given early warning of the spraying to take place so that they can take the necessary precautions to protect themselves and their families. Appropriate responses should include immediate action to deal with the issue as well as procedures put in place to prevent the problem recurring in the future.*

**7.3 Have all workers received basic health and safety induction awareness training?**

There are training records and/or attendance registers available to demonstrate that all workers have received induction training. There is evidence that regular training is given to ALL employees. This training should be recorded. Legal reference: OHSA Section 13(a)

*GUIDANCE NOTES: Risk is inherent in the workplace. In many cases, accidents occur because workers forget about the risks or become complacent and adopt an "it'll never happen to me" attitude. It is therefore essential that a preventative approach is adopted and maintained. Part of this preventative strategy should be to constantly remind workers about the hazards that exist around them. This is*

*especially important in environments such as agriculture where there are significant time delays between activities due to the seasonal nature of production.*

*It is therefore important that awareness-raising is regular and repeated; for example, at the start of every season ALL workers - including permanent workers – should receive the basic health and safety induction awareness training. It is also important to support and reinforce this training with constant reminders in the workplace such as posters and notices that are easily accessible and serve as visible and constant reminders of the hazards that exist. If these measures prevent just one accident, they have been worth the effort.*

**7.4 Does the labour service provider have appointed health & safety representatives & first aiders as required by law?**

There are letters of appointment showing that H&S reps have been appointed, and current and valid certificates for first aiders.

*GUIDANCE NOTES: If the labour service provider has more than 20 employees he must have 1 SHE Rep for every 50 employees*

**7.5 Do workers receive protective clothing (where applicable) and is this free of charge?**

Purchase orders / invoices are available as well as visual evidence that workers have received protective clothing and are using it.

*GUIDANCE NOTES: PPE should be provided free of charge, should be fit for purpose and should be in good working order. Part of the health and safety management system review should include regular inspection of the PPE. While it is acceptable to place initial responsibility for checking the condition of the PPE on the user, it is good practice to follow this up with regular checks by another party, for example, the health and safety representative. Where PPE is concerned it is also important that ALL levels of management ensure that the PPE is being used.*

**7.6 Does the labour service provider provide health checks where applicable?**

There are reports available showing that health checks have been provided for affected workers, for example, blood tests for spray operators.

*GUIDANCE NOTES: Workers that come into regular contact with pesticides should be identified in the risk assessment. Typically, the focus is placed on spray operators as the most obvious candidates for testing however there are often other workers that should be considered - for example stock controllers / store clerks, workers that provide assistance with mixing, even workers that clean areas where chemicals are stored and used.*

*Workers that are exposed to other hazardous work which would require medical screening should also be tested e.g. Hearing Test for workers exposed to work environment with noise levels above 85db, People working on heights: Physical, medical, Psychological test, transporting of employees would require a Valid PDP and Forklift operators: Valid PDP / Physical, Medical & Eye Test. Testing new operators BEFORE they commence spraying should be considered a priority.*

**7.7 Have workers received appropriate training for their jobs?**

Training records are available for formal training (e.g. fork lift drivers) and informal training (e.g. fruit picker) given to workers.

*GUIDANCE NOTES: Transportation of personnel and driven machinery should, where applicable, be included in the Risk Assessment. Apart from preventative maintenance, regular checks and proper application and use of equipment, training of personnel - especially operators/drivers - should be considered as a major mitigation in the control of the risk associated with this equipment. With some equipment, training needs to be repeated - for example forklifts; check the dates on the permits and be sure to schedule re-training before the current permits expire.*

**7.8 If labour service provider machinery/equipment is used to do the job, is it safe to use?**

Visual inspection indicates that machinery and equipment is in good working order and there are maintenance records and pre-service check records available.

*GUIDANCE NOTES: Check equipment regularly, instill in your operators the habit of checking equipment thoroughly before use and encourage them not to use faulty equipment and to report it as soon as they're aware of it. Faulty equipment can cost lives and so it is important that priority is placed on ensuring equipment is fit for purpose and in a good state of repair before being used.*

<p><b>7.9 Where transport is provided, is it safe and is the driver/operator appropriately trained?</b></p>	<p>Visual inspection indicates that vehicles used to transport workers are in good condition and are safe. There must be proof that the driver is legally allowed to driver, for example, there is a PDP license.</p>
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*GUIDANCE NOTES: Drivers that transport more than 12 personnel at a time on public roads should be in possession of a Public Drivers Permit. Tractor drivers that do not transport people and operate only on the farm should be appropriately trained. In all instances, there must be evidence of the training and any permits that have an expiry date must be current.*

*Legal reference: Compliance with applicable regulations, for example, OHSA Driven Machinery Regulations. 295, Section 18(11)*

### **Section 8: Wages, Benefits & Terms of Employment**

**Principle Statement:**

Senior Management shall ensure that workers receive a fair wage & benefits which, as a minimum, meet legislative requirements. In addition, the employment relationship shall be formal; recognized; documented and compliant with national law and convention.

CODE REQUIREMENT	BENCHMARK
<p><b>8.1 How are workers paid and how frequently?</b></p>	<p>There are payslips that indicate how workers are paid and when. If employees are paid in cash or cheque they must receive such payment during working hours, at the workplace in a sealed envelope.</p>

*GUIDANCE NOTES: Ensure that payment is made in accordance with the terms and conditions of employment. You must be able to demonstrate this with records so make sure that you retain copies of payslips, especially where payment is made in cash and the details of the pay are written on the envelope.*

<p><b>8.2 Does each worker receive a payslip for each period and do the pay slips contain the information as prescribed by law?</b></p>	<p>There are copies of pay slips available for each worker and for each pay period that contain all relevant information as laid out in SD 13 Section 6.</p>
<p><i>GUIDANCE NOTES: The following Details MUST be recorded on the payslips:</i></p> <ol style="list-style-type: none"> <li>1) Employers Name and Address</li> <li>2) Workers name and occupation</li> <li>3) Period for which payment is being made - i.e. From-To</li> <li>4) Wage Rate and Overtime Rate (N.B. This is the rate NOT the actual amount paid)</li> <li>5) Number of ordinary hours worked</li> <li>6) Number of overtime hours worked (where applicable)</li> <li>7) Number of hours worked on a Sunday and/or Public Holiday (where applicable)</li> <li>8) Gross wage for the period</li> <li>9) Any other pay - e.g. bonus</li> <li>10) Details of any deductions made</li> <li>11) Employers' UIF number and employee's contribution to the Fund</li> <li>12) Net Pay (i.e. total actual pay)</li> </ol>	
<p><b>8.3 Does the labour service provider pay at least the minimum wage?</b></p>	<p>Payslips shows that the minimum wage is paid to each worker.</p>
<p><i>GUIDANCE NOTES: Must be in accordance with the National Minimum Wage.</i></p>	
<p><b>8.4 Does the labour service provider make deductions (e.g. for loans/advances) and if so, are these done in accordance with legal requirements?</b></p>	<p>Payslips shows that deductions are legally done according to SD 13 Section 8.</p>
<p><i>GUIDANCE NOTES: You should obtain written consent from the worker for ANY deduction that is non-statutory. In addition, it is good practice to keep a record of what provisions are given to the worker as well as costs of these provisions so that there is an accurate record of these transactions. UIF benefits are claimed in terms of the Unemployment Insurance Act 63 of 2001.</i></p>	

<b>8.5 Is overtime paid in accordance with the law?</b>	Payslips show that payment for overtime – including Sundays and Public Holidays – is done in accordance with legal requirements.
<p><i>GUIDANCE NOTES: Overtime is 1 ½ times the normal wage rate; and according to the wage rate scale for work performed on Sundays and x2 (double) for Public Holidays. See Sectoral Determination 13 for wage scale on Sundays. Remember that overtime is not exclusively payable only AFTER the 45 hours have been worked. Overtime is applicable wherever a worker works longer than the contracted hours - even on a daily basis. For example, a worker that is contracted to work from 08h00 to 17h00 is entitled to overtime pay on any day where work is performed outside of these hours (before 08h00 or after 17h00). The worker therefore does not have to complete the 45 hours for the week in order to qualify for overtime pay.</i></p>	
<b>8.6 Do employees receive leave pay?</b>	Wage records show that workers receive paid leave.
<p><i>GUIDANCE NOTES: As per leave requirements.</i></p>	
<b>8.7 Do workers receive sick leave as per legal allowances?</b>	Wage records show that workers are paid for sick leave.
<p><i>GUIDANCE NOTES: It is recommended that you keep clear records of attendance to assist with the proper management of sick leave. Sick leave is something that, if not managed properly, can be abused and cost the business a lot of money as a result of absenteeism. Make sure, therefore, that every absence that is taken as sick leave is recorded. Also remember to deduct any sick leave taken during the first six months from the total permissible sick leave allowance for the cycle (3 years calculated by multiplying the number of days normally worked during a week by 6; a 5 day per week worker is thus entitled to 30 days paid sick leave in a 3-year cycle and a 6 day per week worker is entitled to 36 days paid sick leave in a 3-year cycle.)</i></p>	
<b>8.8 Do workers receive maternity and parental leave?</b>	Wage records show that workers are paid for maternity and parental leave.
<p><i>GUIDANCE NOTES: It is advisable to keep clear records that specify a) when leave is taken and b) what type of leave is taken. In many instances, workers need to complete a leave request form where they specify the type of leave that is being applied for - this serves as</i></p>	

good record to demonstrate compliance with this point. Note that in line with a 2018 amendment in BCEA, employees are entitled to a 10-day parental leave benefit (payment through UIF). Sections 25A and 27 of the Basic Conditions of Employment Act 75 of 1997 (last amended in 2018).

**8.9 Do workers have a contract of employment?**

There is contract of employment for each employee and the contents of the contract comply with SD 13 Section 9.

*GUIDANCE NOTES: Contracts must contain the following information as stipulated in SD13 Section 9: i) the full name and address of the employer; ii) the name and occupation of the agri-worker, or a brief description of the work for which the agri-worker is employed; the place of work; the date on which employment began (and in the case of non-permanent workers, when it will end); ordinary hours of work and days of work; wage or the rate and method of payment; rate of pay for overtime work; any other cash payments the worker is entitled to; any food or accommodation payment the worker is entitled to; any payment in kind received by the worker; how frequently wages will be paid; any deductions, both statutory and non-statutory, to be made from the worker's wages; the leave to which the worker is entitled and the period of notice required to terminate employment.*

**8.10 Have workers been made aware of the contents of their contracts?**

Training records and/or attendance registers demonstrate that the labour service provider has explained the terms and conditions of employment in the contract to the workers.

*GUIDANCE NOTES: At the start of each season - or when workers are employed - use the induction training session to explain the terms of employment to workers, in a language they understand. Once this has been done and workers have a clear understanding of the contract get them to sign an attendance register as confirmation. In cases where workers are recruited from different parts of the country for seasonal work, it is recommended that the terms of employment are explained to them before they depart - this will ensure that workers are able to make an informed decision about accepting the employment or otherwise. Once the contracts have been explained to workers, they must be asked to sign the contract. Contracts need to be signed by both contracting parties. In cases where seasonal workers are employed for the same length of time and under the same conditions of employment, 'group contracts' are*

sometimes entered into. In such cases there needs to be documented proof that the contracts have been explained to all relevant workers and a signed attendance register of acknowledgement to be kept on file. A generic version of the employment contract must be displayed in a prominent area of the workplace where workers are able to refer to it.

### Section 9: Working Hours

***Principle Statement:***

Senior Management shall ensure that normal working hours are in accordance with applicable legislation and shall implement systems to accurately monitor and record hours worked.

CODE REQUIREMENT	BENCHMARK
9.1 Does the labour service provider keep accurate records of hours worked for each worker?	There are time and attendance registers to show what hours are worked.

*GUIDANCE NOTES: Whether you capture the data manually or electronically it is important that these details are clear, accurate and available for a period of 3 years. Ideally, there should be a clearly definable and easy to follow trail between the hours worked and the payment made. The other reason for accurate record keeping is to ensure that overtime is managed in accordance with the limits established by law.*

9.2 Do the records reflect overtime hours worked?	Payslips and time sheets show overtime hours worked.
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*GUIDANCE NOTES: Overtime can be a complex issue to manage in a seasonal industry such as agriculture where production is influenced by a number of factors which very often are beyond the control of the employer. It is therefore normal practice that the requirement to work overtime has become regarded as "standard practice" in the agriculture sector and is very often included in the terms and conditions of employment (contract). An accurate method of monitoring hours worked becomes essential where effective management of overtime*

is concerned. Another good practice is to identify key functions where overtime is likely to occur, for example, spray operators, forklift operators, lorry drivers, irrigation personnel and security guards.

**9.3 Do workers who work at night receive night allowance?**

Payslips show that night allowance is paid where applicable.

*GUIDANCE NOTES: Any night work shall only be performed under agreement with workers and if – (a) The employer pays the worker an allowance of at least 10% of the daily wage of that workers and; (b) transport is provided from the workers' residence at the start and end of the night shift.*

**9.4 Where averaging of working hours applies, is it done in accordance with the law?**

Time sheets show that hours worked comply for BOTH time periods – i.e. shorter hours worked and longer hours worked.

*GUIDANCE NOTES: SD 13, Section 12(1) states "A worker and an employer may conclude a written agreement" to extend the ordinary hours of work. It is important, therefore, that records of such an agreement exist - i.e. it must be documented rather than an informal verbal arrangement. It could, for example, be stated in the contract but in order for the agreement to have affect, obviously the contract must be given to the worker.*