

A PASSPORT TO WORKER AND UNION RIGHTS IN SOUTH AFRICA



www.world-psi.org



Public Services International
Internationale des Services Publics
Internacional de Servicios Públicos
Internationale der Öffentlichen Dienste
Internationell Facklig Organisation för Offentliga Tjänster
國際公務勞連

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About Public Services International (PSI)

Public Services International (PSI) is a global federation of public service trade unions, representing 20 million workers involved in the delivery of public services such as health, social services, utilities, municipal and state services. We represent over 7 million workers in the health and social care sectors, which are currently seeing an increasing phenomenon of migration. PSI supports opening legal channels for migration, but warns that migration should not be used as a tool for development.

Sending workers abroad to ease unemployment pressures in the home country is a flawed model of development. Unabated migration, particularly in the health and social services, has a serious negative impact on the quality and delivery of public health services, particularly in the developing countries which are already facing staff shortages. PSI believes that decent work and quality public services should be available in the place where people live, so that migration becomes an option and not the only choice.

PSI runs a Migration Programme through partnerships with its affiliated public service trade unions worldwide in defending the human and trade union rights of migrant workers while promoting equality, access to justice and quality public services for all. Visit www.world-psi.org

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Acronyms

BCEA - Basic Conditions of Employment Act

COIDA - Compensation for Occupational Injuries and Diseases

CPD - Continued Professional Development

DENOSA - Democratic Nursing Organisation of South Africa

EEA - Employment Equity Act

HOSPERSA - Health and Other Service Personnel Trade Union of South Africa

HPCSA - Health Professionals Council of South Africa

ILO - International Labour Organisation

LRA - Labour Relations Act

NEHAWU - National Education, Health and Allied Workers' Union

NPSWU - National Public Service Workers Union

NUPSAW - National Union of Public Service and Allied Workers

PSI - Public Services International

SAMWU - South African Municipal Workers' Union

SANC - South African Nursing Council

SAQA - South African Qualifications Authority

UDHR - Universal Declaration of Human Rights



Introduction

Migration is not a new phenomenon. People have been moving over centuries for various reasons, mostly in search for work and to find a better life for themselves and their families.

In most cases, workers migrate with unrealistic expectations and insufficient information about recruitment procedures, employment and living conditions abroad, labour laws, workers' rights in countries of destination. Often, they are unaware of the social costs of migration. This lack of information exposes workers to precarious working conditions and exploitation.

What is this Passport for?

The Passport for Worker and Union Rights in South Africa has been developed by the Public Services International and its affiliated trade unions in order to provide migrant workers with essential information related to their rights, recruitment, documentation and employment before they migrate to South Africa. It also covers those migrant workers already working in the country. PSI unions believe that access to such information is critical in promoting decent work and social protection for migrant workers in the public services while promoting access to quality public services for all.

Together with this Passport, PSI also has a toolkit entitled **Migration and Women Health and Social Service Workers in South Africa: Pre-Decision and Information Kit**. The kit is available on the PSI website www.world-psi.org.



What are your Rights as a Migrant Worker in South Africa?

As a migrant worker, you are protected by the following statutory instruments and have the same rights as those of South Africans as follows:

International Instruments	Regional Instruments	National Legislation	Rights Enshrined
Universal Declaration of Human Rights (UDHR), ILO Convention 111	African Union Migration Policy Framework for Africa (2006) / Art 3.5 (p.26)	Constitution of South Africa	Universal rights to all who live and work in South Africa irrespective of nationality, gender, colour, equality; Principle of non-discrimination applies.
International Instruments (ILO Conventions 87, 98, No. 29, 105)	SADC Protocol on the Facilitation of Movement of People (2005)	<ul style="list-style-type: none"> • Basic Conditions of Employment Act (BCEA); • Labour relations Act (LRA) • Employment Equity Act (EEA) 	Join a union; freedom of expression; collective bargaining rights; abolition of forced labour
ILO Convention 100 of 1951		<ul style="list-style-type: none"> • BCEA • LRA 	Fair Labour practices; Equal Remuneration for men and women workers for work of equal value
ILO Convention 105 of 1957			Abolition of Forced Labour
ILO convention 155		Compensation for Occupational Injuries and Diseases (COIDA)	Right to compensation for injuries sustained at work
ILO Conventions 97 and 143			Rights of migrant workers



As provided for in the 1998 International Labour Organisation (ILO) Declaration on Fundamental Principles and Rights at Work, all member States of the ILO have the obligation to respect and to promote the principles and rights to freedom of association and collective bargaining, elimination of forced labour, abolition of child labour and elimination of discrimination in respect of employment and occupation, regardless of whether or not they have ratified the relevant Conventions. For instance, though South Africa has not ratified the ILO Conventions on Migrant Workers C97 and C143, it has the obligation to uphold and respect these fundamental rights of migrant workers, by virtue of its membership in the ILO.

Also:

- Your employer may not prevent you from joining a union
- Your union must be legally recognised
- Your employer is required to negotiate with your union on matters of mutual interest

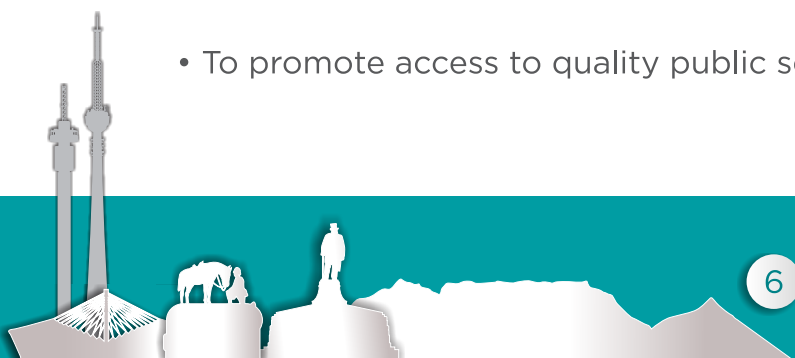
In as far as international universal human rights prevail over national laws, it is important however, to point out that:

There is no 'right' for a non-South African to be given a permit to come to South Africa, or to live and work here. It is always a permission which may be granted or refused by the State.

However, people who apply for the permission have the right to administrative justice. This means they have the right to be given reasons, in writing, why permission was not given.








Why do Unions exist?

- To defend workers' rights
- To advance workers' interests and solidarity
- To play an active role in defending workers' rights at the workplace, in public services, in industries, the economy and society
- To fight discrimination, racism, xenophobia and all forms of intolerance
- To promote equality, social justice and inclusion
- To promote access to quality public services for all



What Unions do?

Trade unions in South Africa work together to achieve common goals. Through collective bargaining and negotiation, they negotiate for the following:

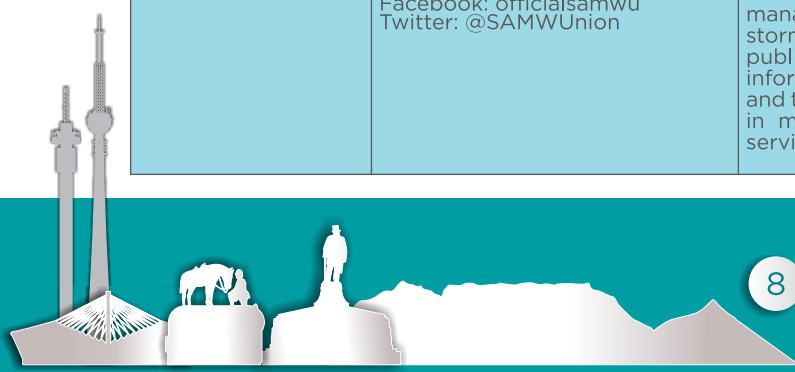
-  Salaries and wages
 -  Allowances
 -  Health and safety at work
 -  Medical benefits
 -  Leave entitlements
 -  Job security
 -  Decent working conditions
 -  Training and career advancement
- (Note: The list is not exhaustive)**



Convinced to join?

If you are interested in joining a union, please contact one of the PSI affiliated unions listed below:

Union	Contact Details	Union Profiles
Public Services International (PSI) Sub -Regional Office in South Africa	28 Melle St, Braamfontein, Braamfontein, Johannesburg 2001 South Africa Tel: 011 403 7765	Unions affiliated to PSI are those in the health, social services, public administration, local and municipal services, education support, utilities and energy sectors.
Democratic Nursing Organisation of South Africa (DENOSA)	605 Stanza Bopape Street, Pretoria 0001 Phone: 012 – 343 2315/6/7 Fax: 012 – 3440750 E-mail: info@denosa.org.za	DENOSA is a nonprofit voluntary organization for South African nurses and midwifery professionals established in 1996. Its aim is to safeguard and promote unity, rights and social status of members in the nursing profession. It is also involved in organizing, uniting, empowering and supporting nurses both in private and public sector.
Health and Other Service Personnel Trade Union of South Africa (HOSPERSA)	Building C 242 Jean Avenue Die Hoewes Centurion 0157 Tel: (012) 664 6353 Fax: (012) 664 6366	HOSPERSA organizes in the public and private health care sectors, and among workers in public welfare, education and general public service. As part of the federation FEDUSA, HOSPERSA is non-aligned politically and is a member of the global union federation, Public Services International (PSI). A significant percentage of HOSPERSA members are nurses, and of these, the majority are women. Over the years, HOSPERSA has been recruiting migrant workers into the union from the shop floor. Migrant workers' membership is spread across doctors, nurses, radiographers and general workers in the health institutions.
National Education, Health and Allied Workers' Union (NEHAWU)	56 Marshall Street Marshalltown Johannesburg Tel: 011 833 2902 Fax: 011 834 3416 Email: info@nehawu.org.za	NEHAWU was formed in June 1987 by workers from the Education, Health, Government and Social Welfare sectors. NEHAWU struggles for union recognition, a living wage and improved welfare of workers in the public services as a whole. It is based on the following core principles: worker control of the union; non-racialism; worker leadership; democratic decision-making through mandates and report-backs; worker solidarity; and international solidarity.
National Public Service Workers Union (NPSWU)	2nd Floor, Redefine Properties, 320 Pixley Kasemane Street (West Street), Durban, 4001 Tel: 031 304 7563 / 083 445 9600 / 083 445 9609 Fax: 031 307 3306 / 304 6380 E-mail: npswu@mweb.co.za patience@npswu.org veni@npswu.org vela@npswu.org Website: www.npswu.org.za	NPSWU was established in 1962. The union constitutionally organises workers in both the public and private sectors, primarily in the health and social services. However, the union also organises workers across the entire public sector in South Africa. NPSWU is an independent trade union that is not aligned to any particular political party.
National Union of Public Service and Allied Workers (NUPSAW)	Success Mataitsane House 814 Stanza Bopape Street, Eastwood, Pretoria Tel.012 342 1674 Fax. 086 672 4354 E-mail: generalsecretary@nupsaw.org.za	NUPSAW is a trade union formed on 13 August 1998, from an amalgamation of militant and moderate trade unions operating mainly in the Public Service. Its sole purpose is to promote and protect the interests of its members from exploitative, oppressive and discriminatory employers.
South African Municipal Workers' Union (SAMWU)	84 Fredericks Street, Johannesburg, 2001 Gauteng, South Africa Email: apikie @ samwu.org.za Tel: 011 100 2621 Facebook: officialsamwu Twitter: @SAMWUnion	SAMWU was formed in 1987 in Cape Town, and it organises workers as guided by its constitution in the following categories: health and social services; public administration services in municipalities and local authorities; libraries, cultural and other community services; water and sanitation; solid waste management and environmental services; road construction and storm water drainage; electricity generation and distribution; public transportation and traffic control; telecommunication and information services; parks and recreation services; and scientific and technical services. Majority of members are working directly in municipalities and others are working in the outsourced services providing service to the communities.



Documentation

In order to be eligible to work in South Africa, you should have the following:

1. Valid passport
2. Work Permit

Categories of work permits

In general, a work permit is very difficult to acquire unless the employer can prove that every effort has been made to find a South African to fill in the position.

1. Quota Work Permit - The foreigner must fall within a specific professional category. These are proclaimed by the Minister annually.
2. General Work Permit - this is only valid for the duration of the contract of employment, and certification of continued employment needs to be submitted annually. It is also attached to a specific employer.
3. Critical Skills Permit - this is specific to foreign nationals possessing skills and qualifications which are deemed beneficial to the development of South Africa. It is usually valid for between 3 & 5 years only. This can include the family of the person holding critical skills in the form of accompanying spouses. Unfortunately, the spouse is not eligible to work within the confines of this type of permit.
4. Intra-company transfer work permit - This may be issued to a foreigner required to work in the Republic for a period no longer than 2 years. They are restricted to work for the particular company referred to in the permit.

N.B. Foreign spouses of South African citizens are not charged a fee for a work permit and it may be applied for in South Africa. The work permit is issued on proof of the existence of the marriage and a work offer. The applicant is required to apply for Permanent Residence. This service is currently free of charge.



Refugees and Asylum Seekers

In South Africa, Asylum holders & Refugees need no work permit and have the right to seek employment and pay taxes. However, the documents need to be renewed periodically ranging from 30 days for asylum seekers and a period of up to four years for refugees permit.

Holders of such permits are required to present themselves at the Refugee Reception Office. In the case of any labour disputes, they are eligible to seek recourse through the Commission for Conciliation, Mediation and Arbitration.

Other Documents and Institutions

- Recognition of Qualifications Certificates –South African Qualifications Authority (SAQA)
- Registration with relevant professional bodies (Health Professionals Council of South Africa (HPCSA) & South African Nursing Council (SANC)
- Continued Professional Development (CPD) – specific to health professionals
- Setting and monitoring of standards-www.sadoctors.co.za

Below is a table showing various professional bodies relevant to public service:

Profession	Professional Body	Acronym	Contacts
Nurses	South African Nursing Council	SANC	http://www.sanc.co.za/
Social workers	South African Council for Social Service Professions	SACSSP	http://www.sacssp.co.za/ Email: mail@sacssp.co.za/ customercare@sacssp.co.za
Psychologists/medical doctors; dentists (health professionals)	Health Professions Council of South Africa	HPCSA	http://www.hpcsa.co.za/
Lay counsellor	Council for the Counsellors	C4CSA	http://www.c4csa.org/
Professional Natural Scientist With qualifications related to agricultural science, animal science, aquatic science, biological science, chemical science, earth science, ecological science, environmental science, food science, geological science, applied mathematics, operations research, microbiological sciences, water resources, zoological science	South African Council for Natural Scientific Professions	SACNASP	http://http://www.sacnasp.org.za/



N.B. Some professions such as health practitioners are required to write examinations and be formally admitted before they are accepted to practice.



Recruitment and Placement

These processes include hiring and deploying of workers into public services institutions and often undertaken through:

- Government -to- government bilateral agreements (e.g. between South Africa & Cuba to supply doctors)
- Private recruitment agencies
- Intra-company transfers
- International recruitment agencies

Beware of Unscrupulous Recruiters!

Migrant workers need to be very careful of unscrupulous persons who may pose as legal recruitment agents but whose aim actually is to take advantage of the workers' vulnerable migration status in order to get profit. The Passport to Workers' Rights has been developed to ensure that migrant workers get the right information and can seek support from formal institutions like the PSI trade unions affiliates in South Africa, pertinent government departments, worker advice centres and migrant rights organisations. Most importantly, it is advisable for potential foreign workers to verify credibility of recruiting agencies through the Department of Labour database.

Where to get help?

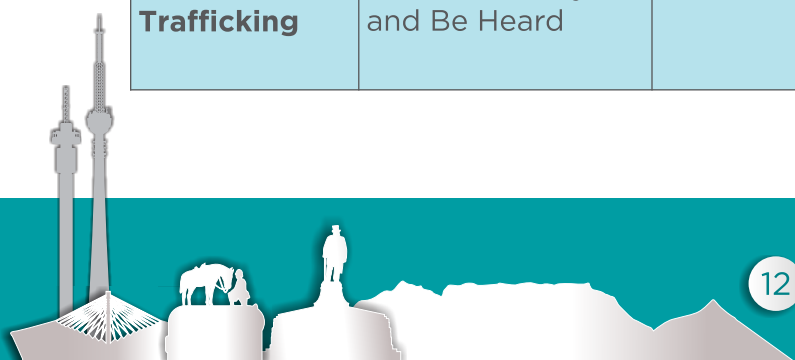
The Passport provides a referral list of consulates, embassies, PSI affiliates in South Africa, organisations working on migration, migrants' rights organisations and worker advice centres, where migrant workers can seek information, advice and assistance.

Contact Details of Government Departments

Services	Government Department	Contact details
Documentation	Department of Home Affairs Offices	Hallmark Building, 230 Johannes Ramokhoase, Pretoria, Gauteng, 0001 South Africa Tel: 012 406 2500/
Labour Matters	Department of Labour (DoL)	Laboria House, 215 Frances Baard (Schoeman) Street, Pretoria, 0001 Tel: 012 309 4000 Fax: 0320 2015
	Commission for Conciliation, Mediation and Arbitration (CCMA)	CCMA Head Office, 28 Harrison Street Johannesburg Tel: 0377 6650/6600 Operating hours: 07H30 -16H00 Monday to Friday E-mail: webmaster@labour.gov.za

Other Organisations Providing Basic Services:

Services	Organisation	Physical Address	Phone
National Helplines	• South African Police Services		08600 10111
	• South African Qualifications Authority (SAQA)		086 0111673
	• AIDS Helpline:		0800 012 322
	• Crime Stop		08600 10111
	• Gender-based violence		(0800 GBV GBV) / *120*7867# (free)
	• Government Employees Pension Fund		0800 117 669
	• Mental Health Information Line		0800 567 567
	• Public Protector Child Line		0800 112040 0800 055555
• National Crisis (Counselling)		0861 322322	
Sexual Harassment & Rape	• Sexual Harassment Education Project (SHEP)	SACCAWU House, 11 Leyds Street, Braamfontein, Johannesburg, Gauteng, South Africa	011 403 0852
	• Rape Crisis		021 447 1467
	• Lifeline		011 422 4242 or 0861 322 322
	• South African Police Services	SAPS Head Office Wachthuis Building 231 Pretorius Street Pretoria	012 393 1000
• Ikhaya Lethemba Residential /Shelter Services	2nd Floor, Ikhaya Lethemba Building, 176 Smit Street, Braamfontein, Johannesburg Gauteng, 2001	011 242 3000 / 071 925 9606 Fax: 011 242 3017	
Human Trafficking	Salvation Army and Be Heard		08007 37283 08000 - Rescue



Contact details of Governmental and Non-Governmental Organisations Working with Migrants in South Africa

Organisation	Contact Details
United Nations High Commission for Refugees (UNHCR)	10 Irwin Street Musina Tel: 015 534 2381 • Fax: 015 534 2381 Email: rsapr@unhcr.org
International Organisation for Migration (IOM)	3 National Road, Mussina Tel: 015 534 1314 • Fax: 015 534 3413 Email: iommusina@iom.in
Consortium for Refugees and Migrants in South Africa (CoRMSA)	501 Heerengracht, 87 De Korte Street, Braamfontein, Johannesburg 2001, South Africa. Tel: 011 403 7560 • Fax: 011 403 7559 E-mail: info@cornsa.org.za
Lawyers for Human Rights (Law Clinic)	4th Floor Heerengracht Building, 87 De Korte Street corner Melle Street, Braamfontein, Johannesburg Tel: 011 339 1960 • Fax: 011 339 2665
Legal Resource Centre	15 & 16 Floor, Braamfischer Towers, 20 Albert Street, Marshall town, Johannesburg Tel: +27 11 836 9831 • E-mail: info@lrc.org.za
Wits University (Law Clinic)	1 Jan Smuts Ave, Braamfontein, Johannesburg, South Africa Tel: +27 11 717 8562 • Fax: +27 11 717 8519
ProBono.org	1st Floor West Wing, Women's Jail, Constitution Hill 1 Kotze Street, Braamfontein, Johannesburg Tel: 011 339 6080 • Fax: 011 339 6077 E-mail: info@probono.org.za
Black Sash	Street Address: Khotso House, 1st Floor, 25 Anderson Street, Johannesburg 2001 Tel: 011 8348361/5 • Fax: +27 11 4921177 E-mail: info@blacksash.org.za
Musina Legal Advice Office	1224 Rollet Kwindia Street, Extension 2, Nancefield , Musina 0900. Tel: 015 533 1002 • Fax: 015 533 1002/086 540
African Migrants Solidarity (AMIS)	8Th Floor Office 817-819, 20 Albert Cnr Eloff Street Bram Fischer Towers, Marshalltown, Johannesburg Tel: 011 4921 175 • Fax: 086 535 2695

Contact details of Governmental and Non-Governmental Organisations Working with Migrants in South Africa (continued)

Organisation	Contact Details
African Diaspora Workers Network (ADWN)	P1 Jan Smuts Avenue, Braamfontein, Johannesburg Tel: 011 433 0215 • Fax: 062 900 8162 info.adwn@gmail.com
Migrant Workers Association of South Africa (MWASA)	Tel: 011 074 8022 • Fax: 086 7253 859 E-mail: info.mwasa@gmail.com
House of Hope - Ithemba	5724 Leseko Street, Mamelodi Street, Pretoria Tel: 071 810 0116 E-mail: nicoshukuman@gmail.com
Isolated Women in South Africa (IWUSA)	264 Jeppe & Nuggett 061 148 0403 e-mail: ethelmusonza@gmail.com
Refugees Nurses Association	Mcc Church, 20 Baranato & Five Street, Berea, Johannesburg Tel: 073 283 3460 • Fax: 072 294 8319
Centre for the Study of Violence & Reconciliation (CSVR)	4th Floor, Braamfontein Centre, 22 Jorrisen Street, Braamfontein, Johannesburg. Tel: 011 403 5102 • Fax: 011 403 7532 E-mail: info@csvr.org.za
Jesuit Refugees Services (JRS)	Jesuit Refugee Service (JRS), 5th Floor Royal Place, 85 Eloff Street (cnr Kerk) Tel: 011 333 0980 • Fax: 011 333 0119
Refugees Social Services	Room N242, Diakonia Centre, 20 Diakonia Avenue, Durban 4000 Tel: 031 826 1935 • Fax: 086 602 1690 E-mail: info@refugeesocialservices.co.za
Sonke Gender Justice	3rd floor, Stevensons Building, 62 Juta Street & De Beer Street, Braamfontein, 2017, Johannesburg, South Africa Tel: 011 339 3589 • Fax: 011 339 6503
South African Red Cross Society	221 Festival Street, Hatfield, Pretoria, 0083 Tel: 031 563 2914 • Fax: 031 563 2929
Coordinating Body for Refugees and Migrant Communities	137, First Floor, Royal Place Building, 85 Eloff Street & Kerk Street, Johannesburg 2000 Tel: 011 333 6599 • Fax: 086 600 1000 E-mail: info@cbrmc.org



Contact Details of Key Embassies/ Consulate Offices in South Africa

Embassy/ Consulate	Physical Address Organisation	Phone/ Fax/ E-mail
Angola (Embassy of the Republic of)	1030 Francis Baard Street, Hatfield, Pretoria, 0083	Tel: 012 342 0049/50 Fax: 012 342 7039
Botswana (Republic of) (High Commission of)	24 Amos Street, Colbyn, Pretoria, 0083 P O Box 57035, Arcadia 0007	Tel: 012 430 9640 Fax: 012 342 1845
Cuba (Republic of) (Embassy of the Republic of)	45 Mackenzie Street Brooklyn, Pretoria, 0181 P O Box 11605, Hatfield, 0028	Tel: 012 346 2215 • Fax: 012 346 2216 E-mail: cubaembassyinsouthafrica@gmail.com embaiada@za.embacuba.cu
Democratic Republic of Congo	791 Schoeman Street Arcadia, 0083 P.O. Box 28795, Sunnyside 0132. Pretoria South Africa	Tel: 012 343 24 55/ 012 344 6475 / 6 Fax: 012 344 40 10 E-mail: rdcongo@lantic.net
Lesotho	391 Anderson Street Menlo Park, Pretoria, 0081 P O Box 55817, Arcadia, 0007	Tel: 012 460 7648 Fax: 012 460 7649
Malawi (Republic of) (High Commission of the Republic of)	770 Government Avenue Arcadia, 0083 P O Box 11172, Hatfield, 0028	Tel: 012 342 0146/1759 Fax: 012 342 0147 Telex: 3 - 22017 SA
Mozambique (Republic of) (High Commission of the Republic of) Mozambique Consulate	529 Edmund Street Arcadia, Pretoria, 0083 P O Box 40750, Arcadia 0007 Nelspruit: 43 Brown Street, Nelspruit, 1201 P O Box 6516, Nelspruit 1201	Tel: 012 401 0300 Tel: 012 401 0306 Fax: 012 326 6388 Tel: 013 752 7396 Fax: 013 755 3157

Contact Details of Key Embassies/ Consulate Offices in South Africa (continued)

Embassy/ Consulate	Physical Address Organisation	Phone/ Fax/ E-mail
Namibia (Republic of) (High Commission of the Republic of)	197 Blackwood Street Arcadia, Pretoria, 0083 P O Box 29806, Sunnyside, 0132	Tel: 012 481 9100 Fax: 012 343 7294 Fax: 012 344 5998 E-mail: secretary@namibia.gov.na
Nigeria (Federal Republic of) (High Commission of the Federal Republic of)	971 Francis Baard Street Arcadia, Pretoria, 0083 P O Box 27332, Sunnyside, 0132	Tel: 012 342 0905/0808/0805/0688 Fax: 012 342 0718 E-mail: nhcp@telkomsa.net
Swaziland	715 Government Avenue, Cnr Blackwood & Government Streets Arcadia, Pretoria, 0083 P O Box 14294, Hatfield 0028	Tel: 012 344 1910 • Tel: 012 344 1917 Tel: 012 344 1924 • Tel: 012 343 4398 Tel: 012 343 0462 • Tel: 012 343 4007 Fax: 012 343 0455
Tanzania (United Republic of) (High Commission of the United Republic of)	822 George Avenue Arcadia, Pretoria, 0083 P O Box 56572, Arcadia 0007	Tel: 012 342 4371/93 Fax: 012 430 4383
Uganda (Republic of) (High Commission of the Republic of)	882 Church Street Arcadia, Pretoria, 0083 P O Box 12442, Hatfield 0083	Tel: 012 342 6031/3 Fax: 012 342 6206
Zambia (Republic of) (High Commission of the Republic of)	Zambia House 570 Ziervoel Avenue Arcadia, Pretoria, 0083 P O Box 12234, Hatfield 0083	Tel: 012 326 1854 Fax: 012 326 2140 E-mail: zahpta@mweb.co.za
Zimbabwe (Republic of) (Embassy of the Republic of Zimbabwe & -General)	Zimbabwe House, 798 Merton Street Arcadia, Pretoria, 0083 P.O Box 55140, Arcadia, 0007 Johannesburg (Consulate- General) 13A Boeing Road West, Bedfordview, JHB 2007 • P O Box 61736, Marshalltown, 2107	Tel: 012 342 5125 • Fax: 012 342 5126 Telex: 320055ZIMPA SA Tel: 011 838 2156/7/8/9 Fax: 011 838 5620 Fax: 011 834 7014

