



WEEKLY LABOUR BULLETIN

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ACCOMMODATION AND EVICTION OF FARM WORKERS

INTRODUCTION

Many farming operations provide accommodation as part of their conditions of employment. What this entails is that the accommodation will be tied to employment, meaning the right to stay is dependent on continued employment. However, it is important to note that farmers cannot evict employees immediately after termination of employment. The law requires a procedural and humane approach.

LEGAL FRAMEWORK

It is important to note that the provision of accommodation and how one is evicted from any accommodation is regulated by the law, and below are the applicable laws.

THE CONSTITUTION

The Constitution is the supreme law of the land, and the right to shelter/ accommodation is enshrined in the Bill of Rights, and it is found in section 28 of the Constitution. This right is protected to the extent that one cannot evict someone arbitrarily without a court order as stipulated in Section 51, 53, and 74 of the Constitution.

THE LABOUR ACT (ACT)

Accommodation is a benefit that can be given to an employee upon employment. Therefore, in section 12 of the Act, **any benefits to be given to an employee must be included in a contract of employment.** In this instance, if an employee is to be provided accommodation, it must be stated in the contract of employment. If not, the allowance to be paid in place of it must be stated as stipulated in the CBA.

THE COLLECTIVE BARGAINING AGREEMENT (CBA) - S.I 41 OF 2022

The CBA stipulates the conditions of service and the code of conduct of the agriculture industry in Zimbabwe. One of the conditions of service is the provision of accommodation or accommodation allowance if the employee is not provided with accommodation. Either of the 2 must be provided by the employer as agreed in the CBA. To give effect to the provisions of the Constitution, not to evict someone arbitrarily, section 22 (4) of the CBA stipulates that an employee must be given 1 month to vacate the provided

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accommodation, so that the employee has ample time to look for alternative accommodation.

WHEN DOES A FARM WORKER LOSE THE RIGHT TO ACCOMMODATION?

A farm employee loses their right to accommodation when their contract of employment ends, whether by termination, resignation, or the end of a fixed-term contract, etc. This is because their right to accommodation is tied to their employment on the farm; therefore, if the employment ends, it means that they also lose their right to accommodation. It is, however, important to note that no matter the reason for the termination of the contract of employment, the employee, according to section 22 (4) of S.I 41 of 2022, will still possess the right to stay on the farm for one month after the termination of the contract.

If an employee either gives or receives notice to terminate their employment while still working on the farm and living in employer-provided accommodation, they retain the right to remain there during the notice period. The one-month period to vacate the premises only begins once the employment contract has officially ended. In other words, if an employee serves a three-month notice period, they are entitled to an additional one month after that to leave the accommodation.

WHAT FARMERS MUST **NOT** DO

Farmers should avoid:

- Forcing workers out immediately after dismissal
- Locking houses or removing roofs
- Disconnecting water or electricity to force departure
- Removing belongings without consent
- Using threats or intimidation

These actions will amount to unlawful eviction, unfair labour practice, and violation of constitutional rights. Even if an employee does not vacate the accommodation within the timeframe stipulated in section 22(4) of the CBA, the employer must not use any of the methods listed above.

RECOMMENDED LAWFUL EVICTION PROCEDURE

When an employee has been terminated, it is important for the farmer to give a written notification to the employee who has been provided with accommodation that they should vacate the accommodation within 1 month of termination of the employment contract.



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However, if the employee does not vacate the accommodation, section 74 of the Constitution prevents eviction of such employees without a court order. This means the farmer must approach the court to obtain a court order allowing them to evict the employee. It might appear like a cumbersome process, but it protects the farmer from prosecution.

To avoid any disputes in the future, the **farmer must include accommodation clauses in employment contracts stating that housing is tied to employment**, and that, after termination of the contract of employment for any reason, the **employee has one month to vacate the provided accommodation**.

CONCLUSION

Accommodation on a farm is tied to employment on the farm, and if the contract of employment ends, the right to accommodation also ends. However, the farmer is precluded from evicting the employee immediately after the termination of the contract; they must give the employee 1 month to look for accommodation. This is done to satisfy the provisions of the Constitution, which holds the provision of shelter in high regard in the Bill of Rights. Therefore, the farmer must adhere to the provisions of accommodation as stipulated by law.

Disclaimer: This article is issued to serve as a general guide to farmers and does not substitute legal advice that may be required to address a particular situation with peculiar circumstances.

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