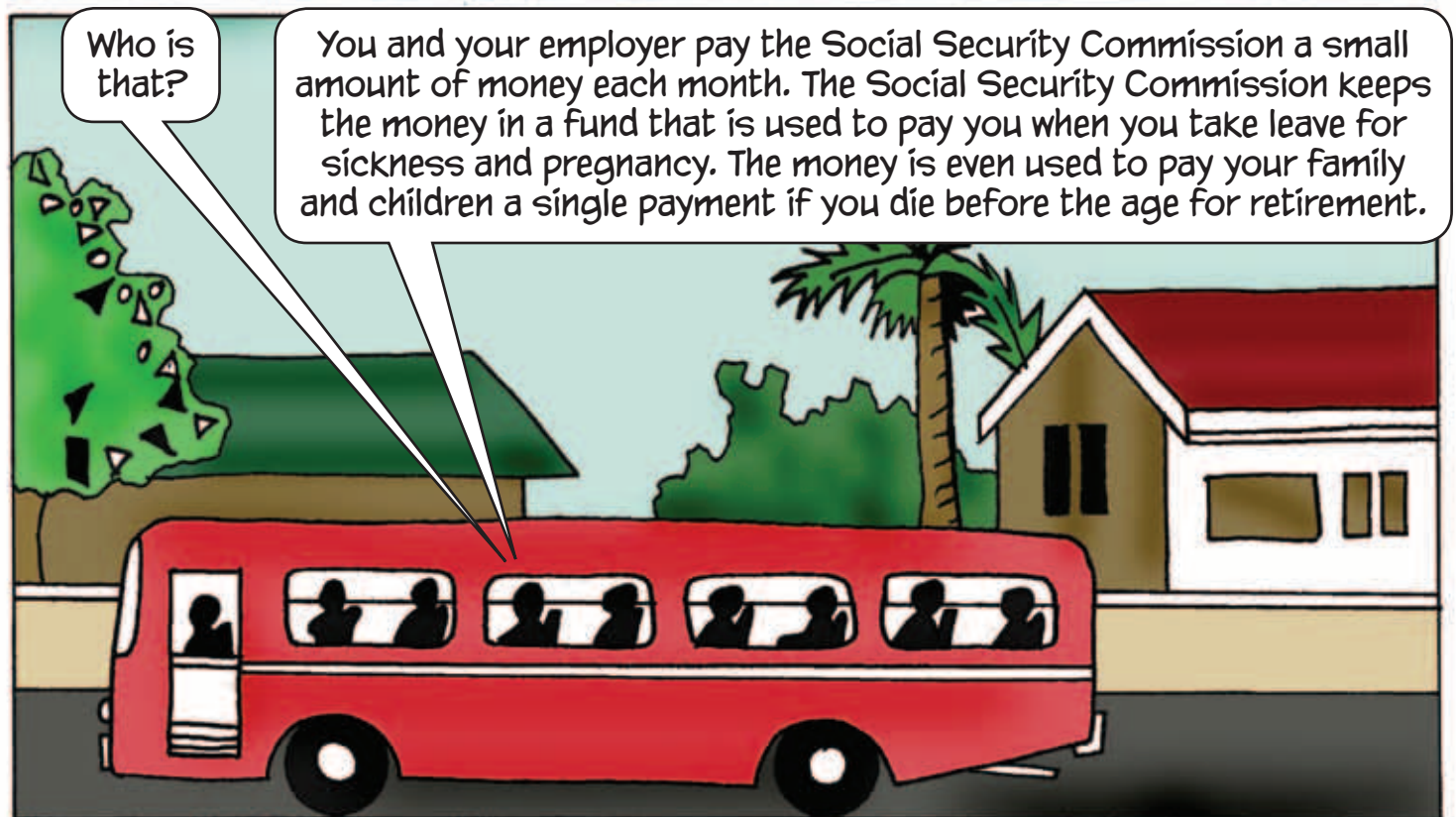
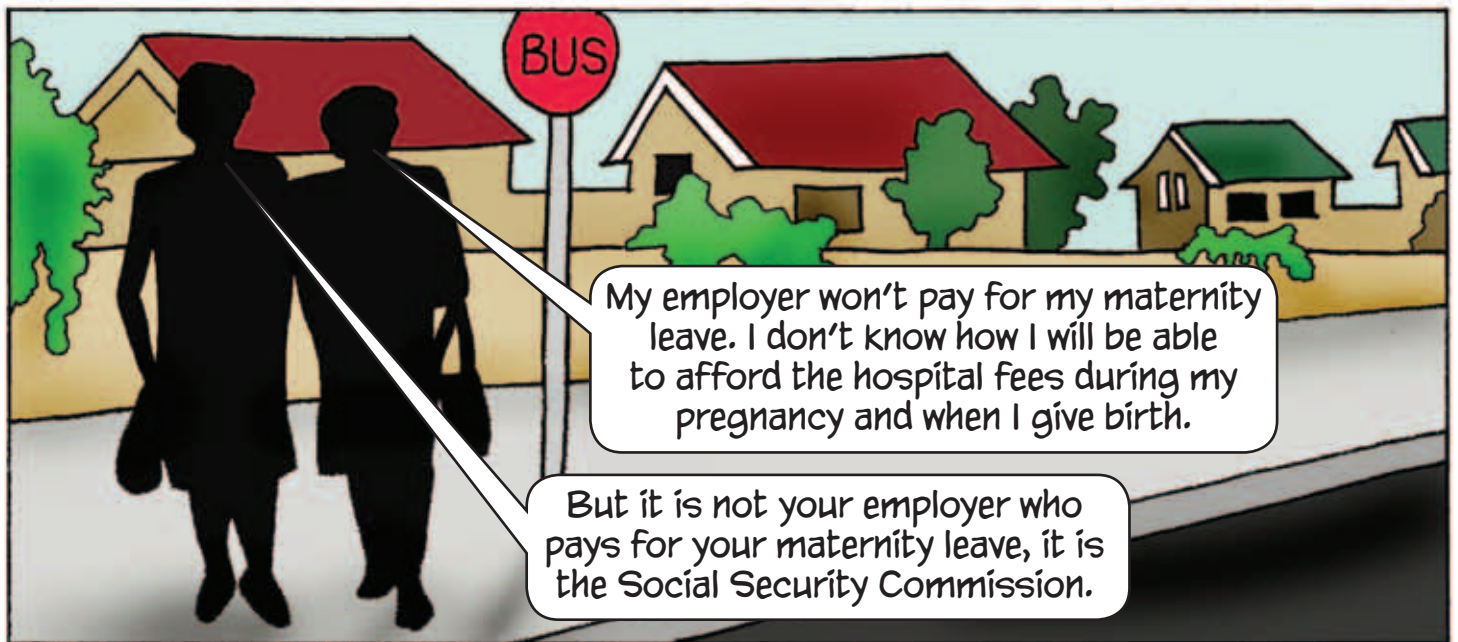


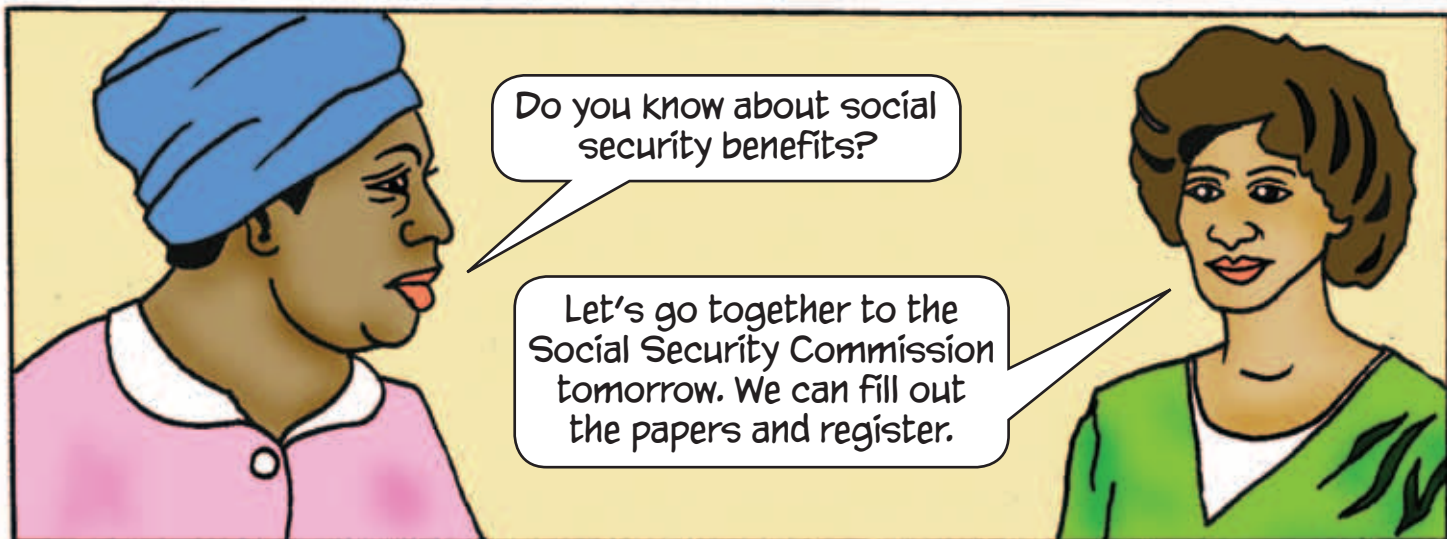
HOW TO GET SOCIAL SECURITY BENEFITS FOR MATERNITY LEAVE



I have just learned that I am pregnant. I would like to take leave for four weeks before the baby is born.

Congratulations, Hilda! You may take leave, but we cannot afford to pay you during that time. I am sorry.





Do you know about social security benefits?

Let's go together to the Social Security Commission tomorrow. We can fill out the papers and register.



Now that you have both registered, you must make payments to this office once a month.

How much are the payments?

You and Hilda must each pay 0.9% of Hilda's monthly salary. After you have paid for 6 months, Hilda will be eligible for benefits. It is the employer's responsibility to make the payments.

Unlike other employees, most domestic workers have no formal working agreements with their employers and no staff policies explaining their rights. This leaves them particularly vulnerable. The contract on the next pages is an example which can be used. You can pull it out or photocopy it, or get a copy from the LAC website (www.lac.org.na) or at the LAC office.

CONTRACT OF EMPLOYMENT FOR DOMESTIC WORKER (page 1 of 3)

Between

Ms/Mrs/Mr: _____
_____ (the "employer")
ID Number: _____
Tel: (w) _____ (cell) _____
Postal address: _____
Residential Address: _____
Address of employee's workplace: _____
Telephone of employee's workplace: _____

And

Ms/Mrs/Mr: _____
_____ (the "employee")
ID Number: _____
Tel: _____
Postal Address: _____
Residential Address: _____

1. DATE OF COMMENCEMENT OF EMPLOYMENT: ____/____/____

2. JOB DESCRIPTION (check all that apply):

- | | | | | |
|---|---|--------------------------------------|---|---|
| <input type="checkbox"/> Cook | <input type="checkbox"/> Shop for groceries | <input type="checkbox"/> Iron | <input type="checkbox"/> Wash clothes/linens/etc. | <input type="checkbox"/> Attend to children/elderly |
| <input type="checkbox"/> Garden | <input type="checkbox"/> Wash car | <input type="checkbox"/> Clean house | <input type="checkbox"/> Wash windows | <input type="checkbox"/> Clean garage/outbuildings |
| <input type="checkbox"/> Other (specify): _____ | | | | |

3. SALARY AND PERIOD OF PAYMENT

The employee shall be paid a basic wage (N\$) of: _____ (monthly) OR _____ (weekly) OR _____ (daily)

The salary will be given to the employee as follows (check which applies):

- ☐ Daily ☐ Weekly ☐ Every two weeks ☐ Monthly

The employee will receive (check all that apply):

- ☐ No benefits

OR the following benefits:

- ☐ Breakfast ☐ Morning tea/coffee ☐ Morning tea/coffee/sandwiches ☐ Lunch
☐ Afternoon tea/coffee/sandwiches ☐ Rations (specify): _____
☐ Bus tickets/transport money (specify amount and frequency): _____
☐ Other (specify): _____

4. ACCOMMODATION (subject to Section 28 of the Labour Act of 2007)

The employer undertakes to provide the employee with accommodation, allowing for reasonable number of visitors outside of work hours:

- ☐ No
☐ Yes (specify location and any rules for visitors): _____

If yes, accommodation includes the following (specify if not provided free of charge):

- ☐ Water ☐ Electricity ☐ Gas bottles ☐ Paraffin ☐ Firewood ☐ Mattress
☐ Space for children/family members (specify how many/who): _____
☐ Other (specify): _____



CONTRACT OF EMPLOYMENT FOR DOMESTIC WORKER (page 2 of 3)

5. WORKING HOURS (subject to the conditions of the Labour Act of 2007)

Fill out the "Ordinary Hours of Work" table below by drawing a continuous line from the beginning to the end of working hours for each day. Write the starting hour and ending hour at the nearest empty box to indicate exact time.

Example: [7:30----- 14:30].

*****Work on Sundays, Public Holidays, and at night are subject to Sections 21, 22, and 19 of the Labour Act of 2007, summarised on the next page of this contract.*****

ORDINARY HOURS OF WORK

*****Meal intervals are included and paid for in the ordinary hours of work, subject to Section 18 of the Labour Act of 2007, summarised on the next page of this contract.*****

	5:00	6:00	7:00	8:00	9:00	10:00	11:00	12:00	13:00	14:00	15:00	16:00	17:00	18:00	19:00	20:00	21:00
Mon																	
Tues																	
Wed																	
Thurs																	
Fri																	
Sat																	
Sun																	

_____ Total Ordinary Hours of Work (add up hours in table)

_____ Overtime Hours of Work, as are mutually agreed upon by the two parties, at N\$ ____ per hour.

*****Overtime work is subject to Section 17 of the Labour Act of 2007, summarised on the next page of this contract.*****

6. THIS CONTRACT, INCLUDING PAGES 1, 2, AND 3, IS SUBJECT TO THE LAWS OF THE REPUBLIC OF NAMIBIA.

Signed at _____ this _____ day of _____.

Employee

Employer

Witness

Witness



CONTRACT OF EMPLOYMENT FOR DOMESTIC WORKER (page 3 of 3)

ORDINARY HOURS OF WORK: An employee's ordinary hours of work may not be more than 45 hours in any week. The maximum daily hours are (1) 9 hours/day if the employee works five days/week or less and (2) 8 hours on any day, if the employee works for more than five days/week.

SUNDAYS AND NIGHT WORK (subject to Sections 21 and 19 of the Labour Act of 2007): An employee is entitled to 2 times her hourly basic wage for work on Sundays. *Exception:* if the employer gives the employee an equal amount of time off during the next working week, and the employee agrees to this arrangement, the employee is only entitled to 1.5 times her hourly basic wage for hours worked on Sunday. Night work means work done between 20h00 and 7h00. An employee who works during these hours is entitled to an increase of at least 6% of her basic hourly wage for each hour worked.

PUBLIC HOLIDAYS (subject to Section 22 of the Labour Act of 2007): If the public holiday is on a day that the employee **USUALLY WORKS**, and she **DOES NOT** work, she is entitled to her regular basic hourly wages. If she **DOES** work, then she is entitled to either (1) 2 times her basic hourly wage for each hour worked, or (2) 1.5 times her basic hourly wage for each hour worked, provided she is given an equal time off from work during the next working week and she agrees to this arrangement. If the public holiday is on a day that the employee **USUALLY DOES NOT WORK**, she is entitled to 2 times the basic hourly wage for each hour worked.

OVERTIME (subject to Sections 16 and 17 of the Labour Act of 2007): Overtime is the portion of time which the employee works in excess of ordinary hours of work. No employee can be forced to work overtime. No employee is allowed to work more than 10 hours of overtime in a week or more than 3 hours of overtime in a single day. Overtime is calculated as follows: 1.5 times the hourly basic wage. *Exception:* for an employee who normally works on a Sunday or public holiday, and who works overtime, she is entitled to: at least 2 times the hourly basic wage.

MEAL INTERVALS (subject to Section 18 of the Labour Act of 2007): For every 5 hours of continuous work, an employee is entitled to 1 hour for her meals.

ANNUAL LEAVE (subject to Section 23 of the Labour Act of 2007): An employee is entitled to a certain number of days off per year, as calculated in the table on the right. An employee must receive her annual leave payment **BEFORE** she goes on leave.

Number of days in ordinary work week	Annual leave entitlement in working days
6	24
5	20
4	16
3	12
2	8
1	4

SICK LEAVE (subject to Section 24 of the Labour Act of 2007): An employee is entitled to: (1) not less than 30 working days for 5-day work week; (2) Not less than 36 working days for 6-day work week; (3) Not less than working days calculated on pro rata basis for less than 5-day work week; (4) For first year of employment, 1 working day per every 26 days worked during the first year. Payment for sick leave is the basic hourly wage, unless: (1) the employee is absent for more than 2 consecutive days; and (2) fails to provide employer a medical certificate. Sick leave payments may also be affected by Employees' Compensation Act payments.

MATERNITY LEAVE (subject to Section 26 of the Labour Act of 2007): After completing 6 months of work, a female employee is entitled to at least 12 weeks' maternity leave, with at least 4 weeks before confinement and 8 weeks after, as long as she provides her employer a medical certificate. Taking off for maternity leave does not affect any of the conditions of employment.

COMPASSIONATE AND UNPAID LEAVE (subject to Section 25 of the Labour Act of 2007): For each period of 12 continuous months of work, the employee is entitled to 5 days' fully-paid compassionate leave when the employee has a death or serious illness in the family.

TERMINATION OF CONTRACT: Subject to the disciplinary procedures as set out in the below section "DISCIPLINARY PROCEDURES," both parties must give written notice if they no longer want to work together. *Exception:* In very serious cases such as theft or other criminal offences, the employer is entitled to end the employment without written notice. At the termination of employment, the employer must give the employee a certificate of service which contains the following information: (1) name and address of employee; (2) name and address of employer; (3) date of commencement and termination of this employment contract; (4) last salary of employee; (5) position held by employee; (6) if the employee requests, the reason for termination of the contract.

SEVERANCE ALLOWANCES (subject to Section 35 of the Labour Act of 2007): After 12 months of continuous work, if the employee is dismissed, dies or retires at or after age 65, she (or her heirs) is entitled to at least one weeks' wages per 12 months of work. *Exception:* if the dismissal was fair and based on misconduct or poor work performance.

DISCIPLINARY PROCEDURES: Depending on the seriousness of the offence and the circumstances, the employer may take one of the following disciplinary actions: Oral warning; Written warning; Final written warning; Dismissal.

(1) **Oral warning:** This is an informal warning in the presence of a third person and no record will be kept. (2) **Written warning:** If the employee ignores the oral warning or in view of the seriousness of the matter a written warning may be issued. It must include the following details: name of employee and employer; date; particulars of alleged offence; employee's response to allegations; actions taken; signatures of both parties. A written warning is valid for 3 months after which it has no further effect. (3) **Final written warning:** If the employee repeats the same or similar offence within 3 months after she received two written warnings or in view of the seriousness of the matter, a final written warning may be issued. It must include the same information as a written warning. A hearing must be held before a final written warning is given. The final warning is valid for 6 months after which it has no further effect. (4) **Dismissal:** In very serious cases the dismissal of the employee may be considered. Before such action is taken, the employer must hold a hearing as for a final written warning. The dismissal must be in writing, including the same information as for a written warning. (5) **Disciplinary hearings:** A disciplinary hearing will be held before a final written warning and before a dismissal. The employer must give the employee 2 days' notice of the hearing, including notice of the complaints against her, and inform her of her right to have someone come with her to assist her. Both parties may bring witnesses to the hearing. The employer must notify the employee of his/her decision after all the evidence and circumstances have been considered. *Exception:* As discussed in the section on "TERMINATION OF THIS CONTRACT," disciplinary procedures are not necessary in the case of very serious offences, such as theft or other criminal offences.

SOCIAL SECURITY: Domestic workers must be registered for social security, which will provide maternity, sickness and death benefits.





Doctor, I want to take maternity leave from work. Will you please sign this form so that I can get my social security benefits?



Of course, Hilda. Your employer also needs to sign it.



My employer has been deducting the 0.9% from my salary each month, and she has also been paying her 0.9% each month. Now I would like to register for my maternity leave.

You are entitled to take 4 weeks of maternity leave before your expected due date and 8 weeks after the delivery of the baby. Every woman must get at least 12 weeks of maternity leave in total. Because it is not always possible to predict the due date precisely, this will mean that maternity leave will sometimes be longer than 12 weeks in total.

You can receive your payment as a cheque or it can be paid directly into your bank account. We will make the payment once a month.

The baby is beautiful, Hilda.

Even though it took time to go to the Social Security Commission office and register, I realise how important it was for my baby and me.

The Social Security Commission maintains a fund to pay workers for maternity and sick leave, and death benefits. All employers are required to register domestic workers with the Social Security Commission, regardless of how many days a week the domestic worker is employed. If a domestic worker works for more than one employer, each individual employer is still responsible for registering the domestic worker and paying 1,8% of the domestic worker's monthly salary to the Social Security Commission. The Social Security Commission keeps track of all the monthly payments made for each individual domestic worker. The following steps are required:

1. BOTH the domestic worker and the employer must fill out a registration form and submit it to the Social Security Commission. The forms are available at Social Security Commission offices or on the internet at <http://www.ssc.org.na/index.php/component/ionfiles/>
2. BOTH the domestic worker and the employer must pay 0,9% of the domestic worker's monthly salary to the Social Security Commission, each month. For example, if the domestic worker earns N\$500 per month, both the domestic worker and the employer must each contribute N\$4,50 to the Social Security Commission each month. Some employers choose to pay both portions themselves, but they are entitled to deduct the domestic worker's portion from her monthly salary.
3. If the domestic worker needs to take maternity leave, she must go to the Social Security Commission office and obtain Form 13 for claiming maternity leave. Both her doctor and her employer must sign the form.
4. It takes about two weeks for the benefit payment to be ready. Payments are made monthly by cheque or bank transfer, but not in cash. The payments will start only when the maternity leave starts.

This comic includes a sample contract for domestic workers and employers. You can use this one, or you can get another copy from the LAC website (www.lac.org.na) or the LAC office.

DO YOU ...

... HAVE A QUESTION?
... HAVE A COMMENT?
... NEED MORE INFORMATION?

CONTACT US!

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Fax: 088-613693
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We would like to hear your feedback about this comic.

For more information about social security and the rights of domestic workers, or to obtain copies of our publications, please contact the Legal Assistance Centre.

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