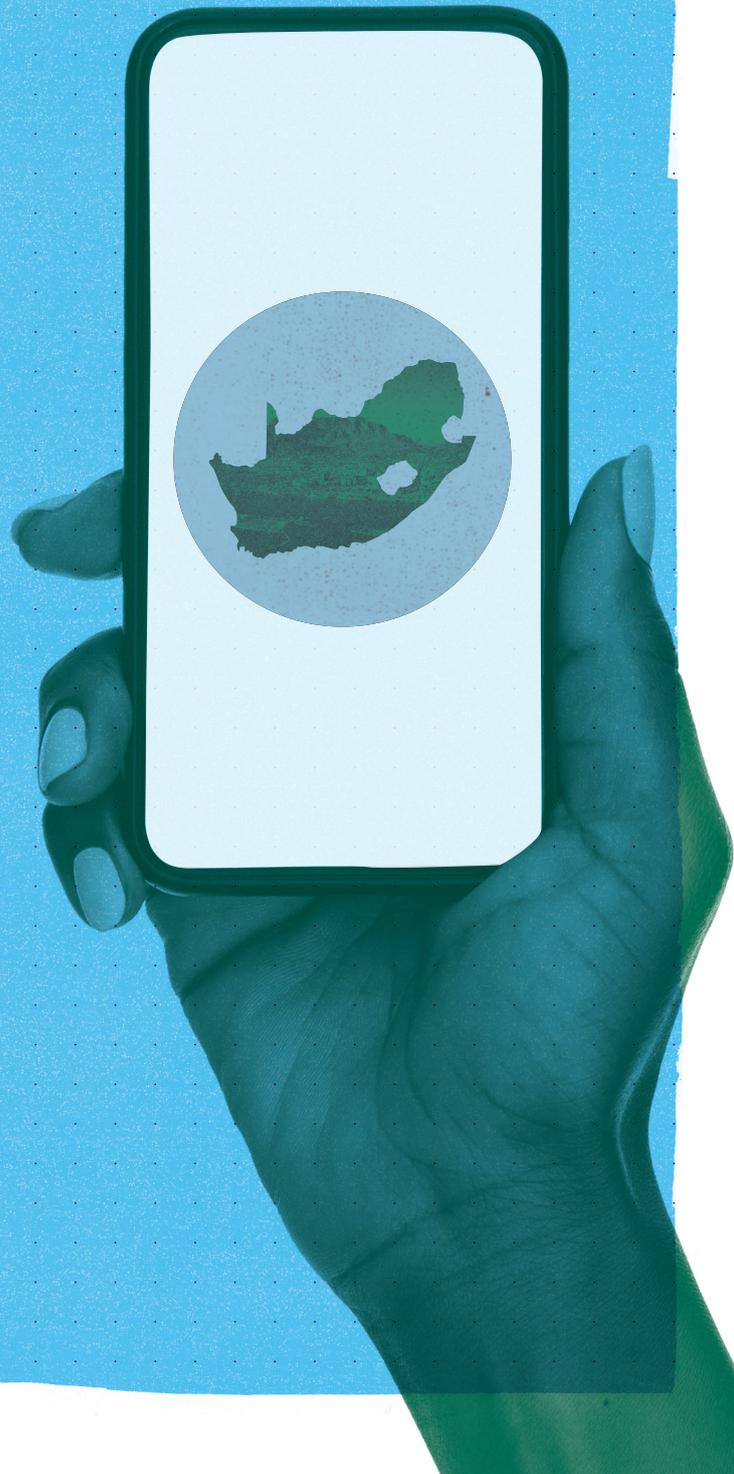


Fairwork

**PLATFORM WORK AMIDST THE
COST OF LIVING CRISIS**

South Africa Ratings 2022



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Executive Summary

This fourth Fairwork report for South Africa continues to chart the evolution of the national platform economy. In South Africa, digital labour platforms hold the potential to reduce the extremely high levels of unemployment and inequality. However, the annual South African Fairwork ratings also provide evidence that platform workers, as in so many countries worldwide, continue to face unfair work conditions and lack the benefits and protections afforded to employees.

The lifting of the National State of Disaster in South Africa in April 2022 as the COVID-19 pandemic reached manageable levels meant a readjustment in working conditions for digital platforms and platform workers. These adjustments must be made under challenging economic pressures, with inflation in South Africa at its highest levels since May 2009 and the price of fuel in the country at an unprecedented high. Regardless of the sector in which platform workers operate, most workers reported transportation costs as the biggest contributor to their work-related expenses.

The 2022 report assesses 13 of South Africa's largest digital labour platforms against five principles of fairness—fair pay, fair conditions, fair contracts, fair management, and fair representation—giving each platform an overall fairness rating out of ten. This year saw adjustments to several of the Fairwork principles, namely: Fair Conditions (2.1, 2.2), Fair Management (4.1), and Fair Representation (5.1, 5.2). Adjustment to the principles are based on Fairwork's ongoing research as well as feedback from stakeholders¹.

All Fairwork teams are invited to carefully consider and provide input into any proposed changes to the principles, through a systematic voting process. The change to Fair Conditions (2.2) and Fair Representation (5.2) impacted the scores of all South African digital platforms this year. Fair Conditions (2.2) now requires platforms to go beyond documented policies promoting the health and safety of workers to providing compensation to workers for loss of income through an inability to work. In 2019 and again in 2021 half the platforms were awarded a point for 2.2; this year none of the platforms were awarded this point. The score for Fair Representation (5.2) has undergone a similar change. Platforms must now go beyond recognising a representative body for good faith negotiations on their workers behalf, to evidencing that workers have a say in their working conditions. No platform received a point for this principle, in contrast to two platforms receiving the point in 2020 and 2021.

Key Findings

SweepSouth leads the 2022 table with seven points, while getTOD, M4JAM and Mr D are tied in second place with six out of ten points.



FAIR PAY

Six platforms can evidence that workers' pay is at or above the minimum wage, which in 2022 was R23.19/hour.

When assessing minimum wage, the scores considered not only the amount paid by the platform to the worker for hours worked, but also the cost of providing task-specific equipment and paying work-related costs out of pocket. The scores also factored in waiting times between jobs. Adding in these additional costs—such as unpaid waiting times, travel costs, vehicle rental or maintenance, petrol, mobile phone data, equipment, and insurance—meant that the minimum wage point could not unequivocally be awarded to the other seven platforms. When extending this net calculation to consider living wage (currently assessed as R43/hour for 2022), only four platforms can evidence this principle of fair pay, and we see workers often exceeding the 45 hours per seven days permitted in the Basic Conditions of Employment Act, 1997 of the Republic of South Africa², in order to cover their expenses.



FAIR CONDITIONS

Seven platforms can evidence the actions they take to protect workers from risks that arise on the job.

These include providing training opportunities and affordable insurance for workers. These platforms were also able to evidence that they meet the new requirement this year of a documented data protection and management policy. None of the platforms can evidence they meet the new requirement for measures to compensate workers for loss of income through illness, or have documented processes that describe the steps the platform takes if workers are unable to work for an extended period due to unforeseen circumstances.



FAIR CONTRACTS

Six platforms were awarded the point for fair contracts by evidencing clear and accessible terms and conditions, with processes in place to notify workers of proposed changes to the contract in a reasonable timeframe.

An important criterion for awarding points for fair contracts is that the platforms recognize South African law as the legal system for addressing worker-related issues. As a result, three platforms registered in other countries are not able to gain this point. Furthermore, only three platforms can evidence they do not unreasonably exclude liability on the part of the platform, and that the contract does not contain clauses that prevent workers from seeking redress for grievances.



FAIR MANAGEMENT

Arbitrary termination or deactivation is a big concern for platform workers, who lack the recourse available to formal employees.

That's why Fairwork assesses whether platforms have due process for decisions affecting workers. The Fairwork scoring system stipulates that platforms must include their policies for disciplinary actions and deactivation in their terms and conditions, as well as provide clear processes for workers to appeal decisions. This process should be available on the platform app and be accessible to both active and deactivated workers. Additionally, this year platforms must evidence that workers are not disadvantaged for voicing concerns. In 2022 seven platforms can demonstrate that their workers have avenues available to meaningfully appeal decisions that affect them, without facing negative consequences. We also encourage platforms to ensure equity in the management process, provide clear policies against discrimination, and take steps to remove barriers and be inclusive of marginalised or disadvantaged groups. In addition, Fairwork requires platforms to be transparent regarding algorithms that they may use to determine access to work or remuneration. This year three platforms can evidence that they meet this requirement.



FAIR REPRESENTATION

Being able to freely organise is a key workplace right in most countries. In the South African platform economy, there is still much that can be done to improve conditions in this regard.

Three platforms can point to documented mechanisms that assure that workers have freedom of association and freedom to express their collective voice. These platforms are also able to demonstrate that their workers are not disadvantaged for communicating concerns to the platform. This year platforms are required to evidence how workers have a say in their working conditions. No platforms were able to provide the evidence that they meet this requirement.

Fairwork South Africa Scores 2022

Minimum standards of fair work

SweepSouth	07 /10	● ● ● ● ● ● ● ○ ○ ○
*getTOD	06 /10	● ● ● ● ● ● ○ ○ ○ ○
M4Jam	06 /10	● ● ● ● ● ● ○ ○ ○ ○
Mr D	06 /10	● ● ● ● ● ● ○ ○ ○ ○
NoSweat	5 /10	● ● ● ● ● ○ ○ ○ ○ ○
Kandua	3 /10	● ● ● ○ ○ ○ ○ ○ ○ ○
Uber	2 /10	● ● ○ ○ ○ ○ ○ ○ ○ ○
Uber Eats	2 /10	● ● ○ ○ ○ ○ ○ ○ ○ ○
Bolt	1 /10	● ○ ○ ○ ○ ○ ○ ○ ○ ○
Picup	1 /10	● ○ ○ ○ ○ ○ ○ ○ ○ ○
Droppa	0 /10	○ ○ ○ ○ ○ ○ ○ ○ ○ ○
InDriver	0 /10	○ ○ ○ ○ ○ ○ ○ ○ ○ ○
Secret Agent	0 /10	○ ○ ○ ○ ○ ○ ○ ○ ○ ○

* getTOD has recently been acquired and rebranded as Home+

The breakdown of scores for individual platforms can be seen on: www.fair.work/sa

Reimagining the Post-Pandemic Platform Economy

The South African economy entered the Covid-19 pandemic in an already weakened state, after a decade of low growth and high levels of inequality. The post-pandemic economic outlook is further clouded by continuing rolling power outages associated with operational and financial difficulties at the state energy utility, coupled with high unemployment rates, high inflation and an unstable political climate.

In the last few years, platform work has rapidly become attractive to workers due to its low entry barriers and potential for quick access to a job and income. However, despite its transformational potential, particularly in contexts where unemployment, market failures and institutional voids persist, precarity in the platform economy continues.

DESPITE ITS TRANSFORMATIONAL POTENTIAL, PARTICULARLY IN CONTEXTS WHERE UNEMPLOYMENT, MARKET FAILURES AND INSTITUTIONAL VOIDS PERSIST, PRECARIETY IN THE PLATFORM ECONOMY CONTINUES.

This fourth annual Fairwork report for South Africa continues to highlight the positive developments regarding decent and fair work standards in the platform economy, as well as the challenges experienced by platform workers.

It evaluates working conditions on digital platforms and scores them according to five principles of fair work: Fair Pay, Fair Conditions, Fair Contracts, Fair Management, and Fair Representation. The scores provide an independent perspective on work conditions for policymakers, platform companies, workers, and consumers. Furthermore, the report provides platform workers with a multi-sectoral view of working conditions and gives new entrants a glimpse of what to expect from platform work. Finally, the report also shows how the lingering effects of the 2020–2021 COVID-19 pandemic compounded precarity for workers, in the context of rising global unemployment due to national economic lockdowns.

FURTHER REFORMS ARE NEEDED TO MOVE TOWARDS A FAIRER AND MORE DECENT DIGITAL LABOUR PLATFORM ECONOMY.

The Fairwork scores presented in this report suggest that further reforms are needed to move towards a fairer and more decent digital labour platform economy. Platforms need to strive for improved living wages for workers that factor in task-specific and work-related costs. Platforms also need to improve working conditions particularly in the context of the continuing aftermath of the Covid-19 pandemic. Platforms need to work harder towards improved transparency and accessibility of their terms and conditions. Platforms should strive to put management processes in place that explicitly promote a more equitable and diverse workplace for platform workers. Furthermore, platforms need to embrace the collective voice of workers

more fully through the recognition of worker-initiated collective action formations.

We remain confident that this report will shine the spotlight on the ever-widening gaps in worker protections as well as the urgent need for fairer work standards in the South African platform economy. The report also highlights the improvements that some platforms have made over the last few years. It is our hope that the report will emphasise the urgency of transforming digital labour platforms into workplaces that provide fair, decent, and secure and sustainable work.

FAIRWORK SOUTH AFRICA TEAM

Sharon Geeling, Pitso Tsibolane, Kelle Howson, Mark Graham, Richard Heeks, Darcy du Toit, Jean Paul Van Belle, Murali Shanmugavelan



Towards Decent Labour Standards in the Platform Economy

Fairwork evaluates and ranks the working conditions of digital platforms. Our ratings are based on five principles that digital labour platforms should ensure in order to be considered to be offering basic minimum standards of fairness.

We evaluate platforms annually against these principles to show not only what the platform economy is today, but also what it could be. The Fairwork ratings provide an independent perspective on labour conditions of platform work for policymakers, platform companies, workers, and consumers. Our goal is to show that better, and fairer, jobs are possible in the platform economy.

The Fairwork project is coordinated from the Oxford Internet Institute and the WZB Berlin Social Science Centre. Our growing network of researchers currently rates platforms in over 30 countries across five continents (Figure 1) using the same principles and a common methodology. In every country, Fairwork collaborates closely with workers, platforms, advocates and policymakers to promote a fairer future of platform work.

Fairwork countries

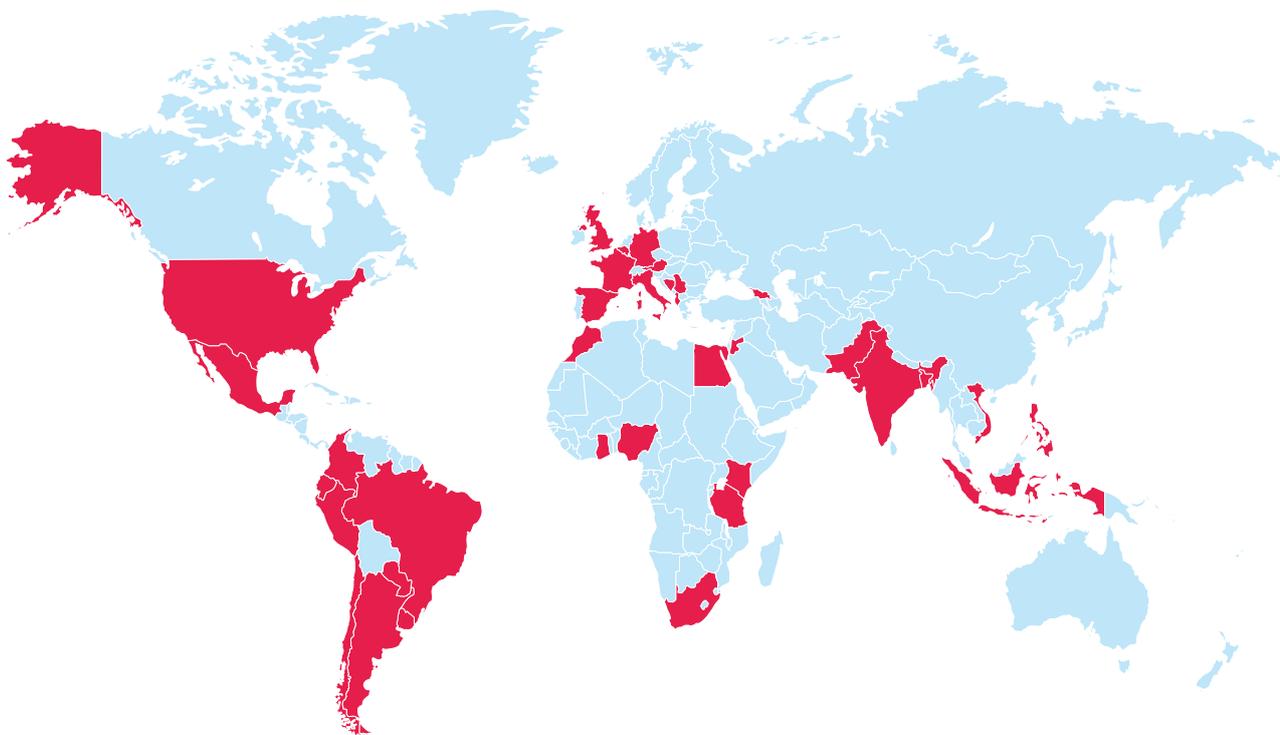


Figure 1. Fairwork currently rates platforms in 37 countries worldwide.

AFRICA

Egypt, Ghana, Kenya, Morocco, Nigeria, South Africa, Tanzania

ASIA

Bangladesh, India, Indonesia, Jordan, Lebanon, Philippines, Singapore, Vietnam

EUROPE

Albania, Austria, Belgium, Bosnia, France, Georgia, Germany, Italy, UK, Serbia, Spain

SOUTH AMERICA

Argentina, Brazil, Chile, Colombia, Ecuador, Paraguay, Peru, Uruguay

NORTH AMERICA

Mexico, USA

The Fairwork Framework

Fairwork evaluates the working conditions of digital labour platforms and ranks them on how well they do. Ultimately, our goal is to show that better, and fairer, jobs are possible in the platform economy.

To do this, we use five principles that digital labour platforms should ensure to be considered as offering 'fair work'. We evaluate platforms against these principles to show not only what the platform economy is, but also what it can be.

The five Fairwork principles were developed through multi-stakeholder workshops at the International Labour Organisation and in other locations, including South Africa.

The principles are explained below; further details on the thresholds for each principle, and the criteria used to assess the collected evidence to score platforms can be found in the Appendix.



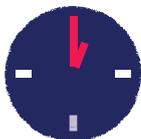
STEP 1

The five principles



Fair Pay

Workers, irrespective of their employment classification, should earn a decent income after taking account of work-related costs and active hours worked. We assess earnings according to the mandated minimum wage in the home jurisdiction, as well as the current living wage.



Fair Conditions

Platforms should have policies in place to protect workers from foundational risks arising from the processes of work. They should take proactive measures to protect and promote the health and safety of workers, including compensation for workers who are unable to work due to sickness or injury.



Fair Contracts

Terms and conditions should be accessible, readable and comprehensible. The party contracting with the worker must be subject to local law and must be identified in the contract. Workers should be notified of proposed changes in a reasonable timeframe before changes come into effect. The contract should be free of clauses which unreasonably exclude liability on the part of the platform, and which prevent workers from seeking redress for grievances.



Fair Management

There should be a documented due process for decisions affecting workers. Workers must have a clear channel of communication and the ability to appeal management decisions affecting them, such as disciplinary actions and deactivation, and be informed of the reasons behind those decisions. The use of algorithms must be transparent and not result in inequitable outcomes for workers. There should be an identifiable and documented policy that ensures equity in the way workers are managed on a platform (for example, in the hiring, disciplining, or firing of workers).



Fair Representation

Platforms should provide a documented process through which worker voice can be expressed. Irrespective of their employment classification, workers should have the right to organise in collective bodies, and platforms should have mechanisms that enable workers to have a meaningful say in the conditions of their work.



STEP 2

Methodology Overview

The Fairwork project uses three approaches to effectively measure fairness of working conditions in digital labour platforms: desk research, worker interviews and surveys, and interviews with platform management. Through these three methods, we seek evidence on whether platforms act in accordance with the five Fairwork Principles.

We recognise that not all platforms use a business model that allows them to impose certain contractual terms on service users and/or workers in such a way that meets the thresholds of the Fairwork principles. However, all platforms have the ability to influence the way in which users interact on the platform. Therefore, for platforms that do not set the terms on which workers are retained by service users, we look at a number of other factors including published policies and/or procedures, public statements, and website/app functionality to establish whether the platform has taken appropriate steps to ensure they meet the criteria for a point to be awarded against the relevant principle.

In the case of a location-based work platform, we seek evidence of compliance with our Fairwork principles for location-based or 'gig work' platforms, and in the case of a cloudwork platform, with our Fairwork principles for cloudwork platforms.

Desk research

Each annual Fairwork ratings cycle starts with desk research to map the range of platforms to be scored, identify points of contact with management, develop suitable interview guides and survey instruments, and design recruitment strategies to access workers. For each platform, we also gather and analyse a wide range of documents including contracts, terms and conditions, published policies and procedures, as well as digital interfaces and website/app functionality. Desk research also flags up any publicly available information that could assist us in scoring different platforms, for instance the provision of particular services to workers, or the existence of past or ongoing disputes.

The desk research is also used to identify points of contact

or ways to access workers. Once the list of platforms has been finalised, each platform is contacted to alert them about their inclusion in the annual ranking study and to provide them with information about the process.

Platform interviews

The second method involves approaching platforms for evidence. Platform managers are invited to participate in semi-structured interviews as well as to submit evidence for each of the Fairwork principles. This provides insights into the operation and business model of the platform, while also opening up a dialogue through which the platform could agree to implement changes based on the principles. In cases where platform managers do not submit the requested evidence, we limit our scoring to evidence obtained through desk research and worker interviews.

Worker interviews

The third method is interviewing platform workers directly. A sample of 6-10 workers is interviewed for each platform. These interviews do not aim to build a representative sample; they seek instead to understand the processes of work and the ways it is carried out and managed. These interviews enable the Fairwork researchers to view copies of the contracts issued to workers, and learn about platform policies that pertain to workers. The interviews also allow the team to confirm or refute that policies or practices are really in place on the platform.

Workers are approached using a range of different channels. Interviews are semi-structured and make use of a series of questions relating to the 10 Fairwork (sub) principles. In order to qualify for the interviews, workers have to be over the age of 18 and have worked with the platform for more than two months.

Putting it all together

This threefold approach provides a way to cross-check the claims made by platforms, while also providing the opportunity to collect both positive and negative evidence from multiple sources. Final scores are decided collectively

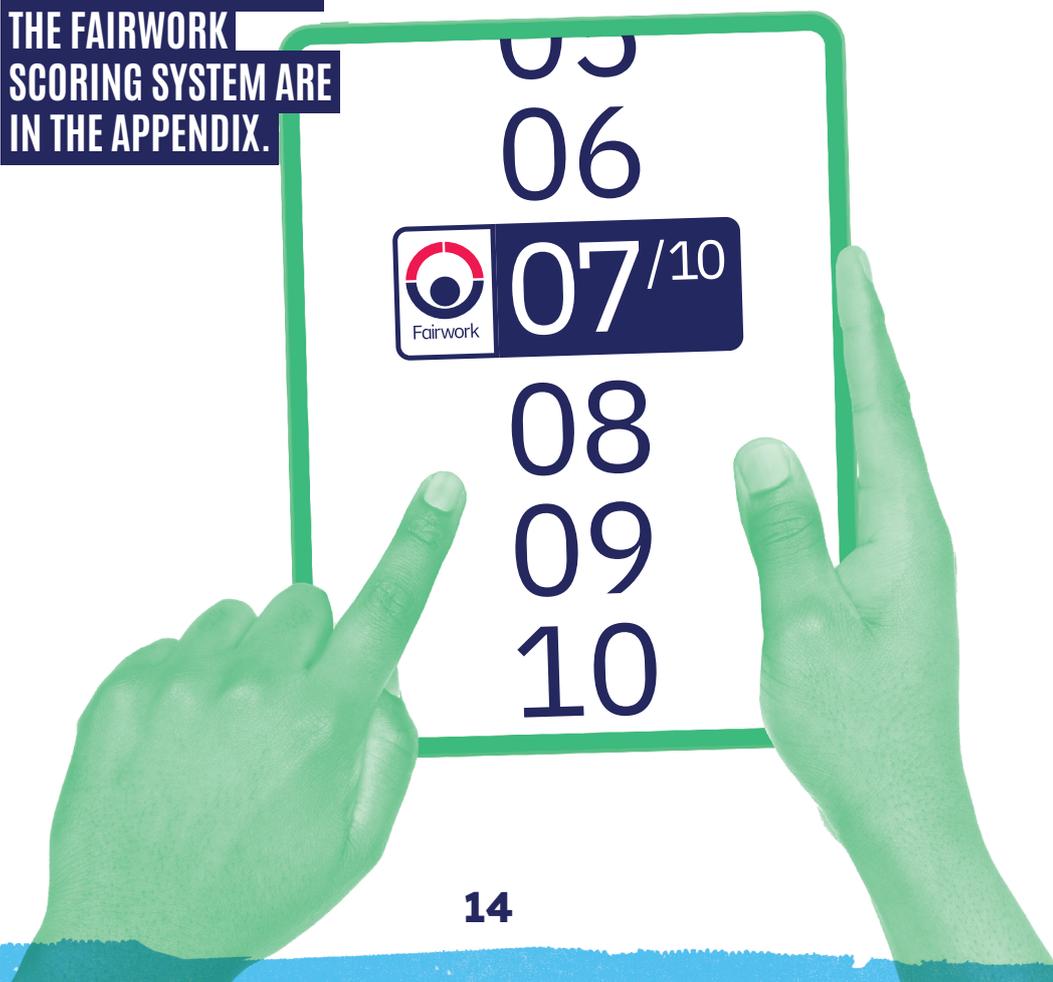
by the Fairwork team based on all three forms of evidence. Points are only awarded if clear evidence exists on each threshold.

How we score

Each of the five Fairwork principles is broken down into two points: a first point and a second point that can only be awarded if the first point has been fulfilled. Every platform receives a score out of 10. Platforms are only given a point when they can satisfactorily demonstrate their implementation of the principles. Failing to achieve a point does not necessarily mean that a platform does not comply with the principle in question. It simply means that we are not – for whatever reason – able to evidence its compliance.

The scoring involves a series of stages. First, the in-country team collates the evidence and assigns preliminary scores. The collated evidence is then sent to external reviewers for independent scoring. These reviewers are members of the Fairwork teams in other countries, as well as members of the central Fairwork team. Once the external reviewers have assigned their scoring, all reviewers meet to discuss the scores and decide final scoring. These scores, as well as the justification for them being awarded or not, are then passed to the platforms for review. Platforms are then given the opportunity to submit further evidence to earn points that they were initially not awarded. These scores then form the final annual scoring that is published in the annual country Fairwork reports.

**FURTHER DETAILS ON
THE FAIRWORK
SCORING SYSTEM ARE
IN THE APPENDIX.**



COUNTRY BACKGROUND

Overview of the South African Platform Economy

The South African economy has suffered a decade of successive crises, resulting in the contraction of production and employment rates, worsened by the crisis derived from the onset of the COVID-19 pandemic in 2020. During this period, the economy contracted by 6.4%³.

A growing number of South African workers look to multinational platform economy platforms like Uber, Uber Eats, Bolt, SweepSouth and others, to find work. However, in part because of its novelty, and the struggle of formal labour statistics to keep up, there are no reliable figures on the scale of the South African platform economy.

PLATFORM WORK TOUCHES AT LEAST 1% OF THE WORKFORCE; WITH THIS NUMBER GROWING BY WELL ABOVE 10% ANNUALLY.

We have previously estimated that there are around 30,000 workers in location-based platform work in South Africa, like taxi driving, delivery, and cleaning, and up to 100,000 actively undertaking online work, or 'cloudwork'. While many of the latter will not be full-time, this still suggests platform work touches at least 1% of the workforce; with this number growing by well above 10% annually.

The post-pandemic opening up of the economy has seen

some changes in the South African platform scene. The ride-hailing sector has picked up strongly with people returning to work, school, universities, and starting to travel—but with several public transport options such as local rail not yet fully restored. The market consolidated further, with Uber becoming the dominant player and Bolt the only viable alternative after Didi pulled out hardly a year after its entrance. However, the huge increase in the driver's cost structure – especially the price of fuel – has eroded the margins of drivers since their earning rates have not kept pace.

This sector has also experienced a rise in the number of protests waged by workers over the last five years. While the reasons for the strikes vary, pay (high commission rates charged by platforms), employment status (lack of government regulation), as well as health and safety are among the commonly cited reasons^{4 5}. Protests have resulted in violence, log-offs, and public demonstrations.

The e-delivery sector, perhaps surprisingly, appears to have held onto its explosive growth afforded to it by the pandemic restrictions – having goods delivered to one's home has clearly become an entrenched habit. However,

most fast-food and small deliveries are only economical if done by light-weight motorbike; although this presents a lower barrier to entry, it means more drivers are fighting over the available work and it presents serious road safety issues on South Africa's bike-unfriendly roads. Delivery drivers who use cars face heavy competition, and some are finding it difficult to meet their fixed costs.

UNEMPLOYMENT RATES IN SOUTH AFRICA CONTINUE TO BE SKEWED BY RACE, GENDER AND AGE.

The latest Quarterly Labour Force Survey (QFLS), published by Statistics South Africa for the first quarter of 2022⁶, shows that while unemployment rates remain very high, the unemployment rate marginally decreased by 0.8 of a percentage point, from 35.3% in the fourth quarter of 2021 to 34.5% in the first quarter of 2022. Despite this slight improvement in the number of people employed, unemployment rates in South Africa continue to be skewed by race, gender and age. This creates an enormous economic and socio-political pressure for job creation.

Moreover, during the COVID-19 pandemic, certain sectors experienced significant declines, including construction,

trade, transport and agriculture. In the context of this unemployment crisis, South Africa's digital labour platforms have come to play an increasingly important role. Indeed, digital labour platforms are frequently heralded as the solution to the problem of unemployment, as they allow those who typically face barriers to employment to find work more easily. Nonetheless, joining the platform economy in South Africa can often present hidden economic barriers that continue to challenge inclusion for already marginalised communities. These can include the cost of hiring a car in order to enter the ride-hailing sector, dealing with rising fuel costs and rampant inflation, or paying for public transport costs to get to jobs far from one's place of residence. Despite these costs, the platform economy has played an important part in providing work during a year of considerable financial instability. In particular, the food delivery sector has seen considerable growth during the lockdown periods, as have grocery delivery services. As many of our interviewees were previously unemployed or had lost jobs during the course of the pandemic, these opportunities have definitely been important for the South African economy.

THE TOP 1% IN SOUTH AFRICA OWN 67% OF THE COUNTRY'S WEALTH, AND





THE TOP 10% OWN 93%

South Africa is well-known for many positives: its rainbow nation multiculturalism, its sporting prowess, the beauty of its landscapes. But it is also well-known for a significant negative: that it's the world's most unequal nation. Its Gini coefficient – a measure of how unequal a society is – is nearly 50% higher than the average for emerging markets and, unlike those other countries, South Africa's inequality has risen, not fallen, in the past 20 years⁷. The top 1% in South Africa own 67% of the country's wealth, and the top 10% own 93%—meaning, of course, that the remaining 90% own just 7%. In South Africa, the legacy of apartheid means inequality remains highly spatially and racially delineated⁸.

CONCERNS ABOUT THE POSSIBILITY OF THEFT AND ASSAULT WERE PRESENT FOR MANY OF THE WORKERS WE INTERVIEWED ACROSS THE PLATFORMS. FOR DELIVERY AND RIDE-HAILING DRIVERS THE THREAT OF HIJACKING WAS A DAILY WORRY.

With this pattern fuelling high crime rates and undermining social and political cohesion, reducing inequality is a

top priority in the country. This includes ensuring that technological change reduces rather than increases gaps. In addition to the challenges of historic inequality, the rising crime rates in South Africa continue to threaten the well-being of platform workers. Concerns about the possibility of theft and assault were present for many of the workers we interviewed across the platforms. Moreover, for delivery and ride-hailing drivers the threat of hijacking was a daily worry. As the platform economy is directly putting workers into these unsafe environments, we must continue to question how we—as users, platform companies, and government—can ameliorate the need for workers to assume this disproportionate risk to their personal safety and well-being. Against this backdrop, it becomes important to consider whether South Africa's platform economy can help to reduce inequality. Where they provide a job for those previously unemployed and where they pay a fair wage, platforms are making a positive contribution. But where workers find themselves earning less than a decent wage and/or earning less than they previously did, then inequality may be worsening, not improving.

THE LEGAL CONTEXT

What makes a Worker an Employee?

The platform economy benefits from a legal loophole that exists in South Africa, as in most countries: labour rights are limited to workers classified as ‘employees’. Digital platforms can thus avoid the costs and duties arising from employees’ rights – minimum pay, maximum hours, paid leave etc. – by classifying their workers as ‘self-employed’ or ‘independent contractors’.

Workers on the platforms covered by this study were, without exception, classified in this way.

This classification is seriously problematic. Objectively, on most platforms, workers are under the platforms’ control and deliver the platforms’ brand just like employees. In several countries, workers have taken court action to claim employee rights—in some cases successfully but in others not, depending on the details of their work and the local definition of ‘employee’. In South Africa, Uber drivers who tried to do so were unable even to have their claims heard. In one case, drivers tried to take a dispute with Uber to arbitration—that is, with the Netherlands-based Uber company through which Uber entered into contracts with them. But, despite delivering its service and earning revenue in South Africa, Uber persuaded the Commission for Conciliation, Mediation and Arbitration (CCMA) that it was really operating in the Netherlands and, therefore, fell beyond the reach of South African law⁹.

The route of litigation is therefore fraught with uncertainty and is undoubtedly costly. While sham employment must be exposed, Fairwork and its partners believe that a more effective solution lies in promoting appropriate legal

protection extending to all platform workers, irrespective of their legal classification. Digital platforms can avoid the

COSTS AND DUTIES ARISING FROM EMPLOYEES’ RIGHTS - MINIMUM PAY, MAXIMUM HOURS, PAID LEAVE ETC. - BY CLASSIFYING THEIR WORKERS AS ‘SELF-EMPLOYED’

This also addresses a second problem: employee rights were designed for standard employees, such as factory or office workers, working fixed hours in workplaces where their rights can be enforced. But in the context of platform work this is possible only to a limited extent. Thus, even those rights which do extend to independent contractors – such as certain rights of domestic workers – are difficult to apply to a dispersed, non-unionised workforce by means of the existing institutions which are geared, by and large, to formal workplaces and trade unions representing employees.

A MORE EFFECTIVE SOLUTION LIES IN PROMOTING APPROPRIATE LEGAL PROTECTION EXTENDING TO ALL PLATFORM WORKERS, IRRESPECTIVE OF THEIR LEGAL CLASSIFICATION.

Moral pressure on platforms can encourage them to make improvements but, unfortunately, not all platforms will do so voluntarily. That makes adequate legal rights necessary. But, as with many other pieces of legislation, the greatest obstacle is lack of political will on the part of policy makers. Some hold the belief that worker rights discourage job creation¹⁰ and that, in South Africa, job creation is the bigger priority. However, decent work and job creation are

not mutually exclusive. We need to develop an enforceable code of basic worker rights that is compatible with sustainable business models, by bringing workers and other stakeholders to the table.

To this end, the Fairwork South Africa team has developed a Code of Practice for applying and extending existing law to the platform economy in South Africa. The Code is intended as a resource for platforms, workers, legal practitioners, decision-makers and policy-makers to better protect platform workers who are falling through the cracks of regulation. It draws on the existing legal framework in South Africa, as well as highlighting areas where legal reform is needed. This Code of Good Practice was presented at the South African Society for Labour Law (SASLAW) conference in Johannesburg on November 6th 2020¹¹.

DECENT WORK AND JOB CREATION ARE NOT MUTUALLY EXCLUSIVE. WE NEED TO DEVELOP AN ENFORCEABLE CODE OF BASIC WORKER RIGHTS THAT IS COMPATIBLE WITH SUSTAINABLE BUSINESS MODELS, BY BRINGING WORKERS AND OTHER STAKEHOLDERS TO THE TABLE.



Fairwork South Africa Scores 2022

Minimum standards of fair work

SweepSouth	07 /10	● ● ● ● ● ● ● ○ ○ ○
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Mr D	06 /10	● ● ● ● ● ● ○ ○ ○ ○
NoSweat	5 /10	● ● ● ● ● ○ ○ ○ ○ ○
Kandua	3 /10	● ● ● ○ ○ ○ ○ ○ ○ ○
Uber	2 /10	● ● ○ ○ ○ ○ ○ ○ ○ ○
Uber Eats	2 /10	● ● ○ ○ ○ ○ ○ ○ ○ ○
Bolt	1 /10	● ○ ○ ○ ○ ○ ○ ○ ○ ○
Picup	1 /10	● ○ ○ ○ ○ ○ ○ ○ ○ ○
Droppa	0 /10	○ ○ ○ ○ ○ ○ ○ ○ ○ ○
InDriver	0 /10	○ ○ ○ ○ ○ ○ ○ ○ ○ ○
Secret Agent	0 /10	○ ○ ○ ○ ○ ○ ○ ○ ○ ○

* getTOD has recently been acquired and rebranded as Home+

The breakdown of scores for individual platforms can be seen on: www.fair.work/sa

Explaining the scores

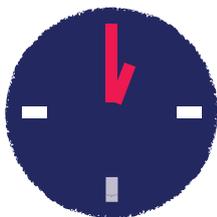


Fair Pay

Six platforms (getTOD, Kandua, M4JAM, NoSweat, Picup, SweepSouth) can evidence that workers' pay is at or above the minimum wage, which in 2022 was R23.19/hour¹². When assessing minimum wage the scores took into account not only the amount paid by the platform to the worker for hours worked, but also the cost of providing task-specific equipment and paying work-related costs out of pocket. The scores also factored in waiting times between jobs.

Adding in these additional costs—such as unpaid waiting times, travel costs, vehicle rental or maintenance, petrol, mobile phone data, equipment and insurance—meant that the minimum wage point could not unequivocally be awarded to the other seven platforms (Bolt, Droppa, InDriver, Mr D, Secret Agent, Uber, Uber Eats).

When extending this net calculation to consider living wage (currently assessed as R43/hour for 2022), only four platforms (getTOD, Kandua, M4JAM, NoSweat) can evidence this principle of fair pay, and we see workers often working very long hours in order to cover expenses.



Fair Conditions

Seven platforms (Bolt, getTOD, M4JAM, Mr D, SweepSouth, Uber, Uber Eats) can evidence the actions they take to protect workers from risks that arise on the job. These included providing educational opportunities and affordable

insurance for workers. These platforms were also able to evidence they meet this year's new requirement of a documented data protection and management policy.

None of the platforms can evidence that they meet the new requirement for measures to compensate workers for loss of income through illness, or documented processes that describe the steps the platform takes should workers be unable to work for an extended period due to unforeseen circumstances.

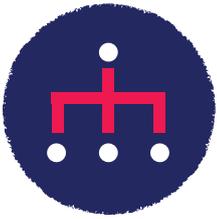


Fair Contracts

Six platforms (getTOD, Kandua, M4JAM, Mr D, NoSweat, SweepSouth) were awarded the point for fair contracts by evidencing clear and accessible terms and conditions, with processes in place to notify workers of proposed contract changes in a reasonable timeframe.

An important criterion for awarding points for fair contracts is that the platforms must recognize South African law as the legal system for addressing worker-related issues. As a result, three platforms that are registered in other countries (Bolt, Uber, Uber Eats) are not able to gain this point.

Only three platforms (Mr D, NoSweat, SweepSouth) can evidence they do not unreasonably exclude liability on the part of the platform, and that the contract does not contain clauses that prevent workers from seeking redress for grievances.



Fair Management

Arbitrary termination or deactivation is a big concern for platform workers, who lack the recourse available to formal employees. That is why we assess how due process for decisions affecting workers. The Fairwork scoring system stipulates that platforms must include their policies for disciplinary actions and deactivation in their terms and conditions, as well as provide clear processes for workers to appeal decisions. This process should be available on the platform app and be accessible to both active and deactivated workers. Additionally, this year platforms must evidence that workers will not be disadvantaged for voicing concerns.

In 2022 seven platforms (getTOD, M4JAM, Mr D, NoSweat, SweepSouth, Uber, Uber Eats) can demonstrate that their workers have avenues available to meaningfully appeal decisions that affect them, without facing negative consequences.

We also encourage platforms to ensure there is equity in the management process, that there are clear policies against discrimination, and that steps are taken to remove barriers and be inclusive of marginalised or disadvantaged groups. In addition, platforms are required to be transparent regarding algorithms they may be using to determine access to work or remuneration. This year three platforms (M4JAM, Mr D, SweepSouth) can evidence they meet this requirement.



Fair Representation

Being able to freely organise is a key workplace right in most countries. In the South African platform economy, there is still much that could be done to improve conditions in this regard. Three platforms (getTOD, Mr D, SweepSouth) can point to documented mechanisms that ensure that workers have freedom of association and that they can express collective voice. These platforms were also able to demonstrate that their workers are not disadvantaged for communicating concerns to the platform.

This year platforms are required to evidence how workers have a say in their working conditions. No platforms were able to evidence that they meet this requirement.

PLATFORM IN FOCUS

SweepSouth

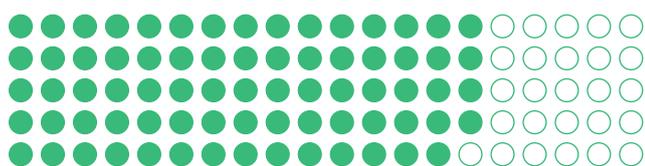
SweepSouth provides a range of services to homes and businesses in the Gauteng, KwaZulu-Natal and Western Cape provinces in South Africa, including home cleaning, outdoor cleaning, heavy lifting, and maintenance services¹³.

Principle	First Point	Second Point	Total
 Principle 1: Fair Pay	 Ensures workers earn at least the local minimum wage after costs	 Ensures workers earn at least a local living wage after costs	 1
 Principle 2: Fair Conditions	 Mitigates task-specific risks	 Provides a safety net	 1
 Principle 3: Fair Contracts	 Provides clear and transparent terms and conditions	 Ensures that no unfair contract terms are imposed	 2
 Principle 4: Fair Management	 Provides due process for decisions affecting workers	 Provides equity in the management process	 2
 Principle 5: Fair Representation	 Assures freedom of association and the expression of collective worker voice	 Supports democratic governance	 1

SweepSouth total score


07 / 10

Fairwork interviews were only done with workers providing home cleaning services, since the other services are relatively new offerings from SweepSouth, and still need to gain momentum in uptake by platform workers. The home cleaning service allows customers to arrange for a fully customised service. Customers book a service by indicating the number of rooms that should be cleaned and any selection of extra chores, like ironing or cleaning windows. SweepSouth calculates a price for the service and if accepted, connects the customer with a vetted and trained worker. With a mission to “create a hassle-free and reliable service” while “providing dignified, flexible work at decent pay” SweepSouth has grown to over 7000 cleaners since its beginnings in December 2013. The platform offers its workers the freedom to choose where and when they want to work, while earning up to 80% of the booking fee. Importantly, 74% of workers are primary breadwinners and 71% were unemployed before joining the platform¹⁴. Besides providing employment opportunities, SweepSouth strives to elevate its workers from a historical position of menial labour to one where their work is respected and reflects their contribution to society. For SweepSouth, this means active efforts to change the practice and attitudes towards domestic service in South Africa. Hence, customers engage with “SweepStars”, reflecting platform efforts to move thinking away from loaded terms like “maids” or “chars”.



74% of workers are primary breadwinners

SweepSouth has been part of the South Africa Fairwork ratings since 2019, consistently ranking as one of the three highest rated digital labour platforms. Over the years the platform has demonstrated commitment to improving the working conditions of its workers. SweepSouth is noteworthy this year firstly, because it leads the platform rankings for the first time, but also because their SweepStars stood out from most other platform workers we interviewed. SweepStars seem well organised and motivated, and use platform-provided communication channels to support and mentor each other. In general,

SweepStars reported being happy with SweepSouth, grateful for the work opportunities SweepSouth provides, and they are loyal to the platform.

SWEEPSOUTH HAS BEEN PART OF THE SOUTH AFRICA FAIRWORK RATINGS SINCE 2019, CONSISTENTLY RANKING AS ONE OF THE THREE HIGHEST RATED DIGITAL LABOUR PLATFORMS.

Relatively low barriers to entry for domestic cleaning work and a deeply entrenched practice in South Africa of informal employment of domestic workers at low wages, creates a unique challenge for SweepSouth to meet both Fair Pay principles. This year, SweepSouth scored one Fair Pay point, as it has done each year since first being rated. The platform ensures all its workers earn at least the National Minimum Wage in South Africa of R23.19 per hour, after covering work-related costs. Additionally, the SweepStars we interviewed reported regular increases in the platform pay rates over the years, in contrast to several other platforms we rated this year.



of workers were unemployed before joining the platform

In 2021, efforts to provide financial support to their workers through the COVID19 pandemic saw SweepSouth awarded the point for Fair Conditions 2.2, along with five other platforms. Changing working conditions coupled with changes to the principle has resulted in the point not being awarded to any platform this year. SweepSouth was thus awarded only one point this year for Fair Conditions. Nevertheless, SweepSouth has set themselves apart from other platforms by providing novel functionality where customers are able to make a financial contribution to their SweepStar when they cancel a booking due to health reasons.

As in previous years, most of the workers we interviewed this year did not read the terms and conditions in the SweepSouth contract, complaining it was too long and difficult to understand. When asked whether she understood her contract, one SweepStar explained that “I don’t think I did read, go through all of it. Now you are saying it, I’m going to read it. I was lazy. Now, I just go and whatever I ask I look to see [what] the contract says.” This behaviour isn’t uncommon amongst those we interviewed and leaves workers vulnerable to potential misconduct by platform companies. In response to concerns raised during the 2021 Fairwork ratings, SweepSouth has structured the contract differently, reorganised the content and simplified the language to make the terms and conditions clearer for workers. Release of the new terms and conditions is imminent and SweepSouth was awarded both points for Fair Contracts.

Despite changes to Principle 4.1, SweepSouth was again awarded both points for Fair Management. The platform has made changes to their terms and conditions to explicitly describe the process available to workers to appeal issues, penalties, and disciplinary actions. The terms and conditions now also include a section to address discrimination against platform workers.

SWEEPSOUTH MADE A PUBLIC STATEMENT IN 2021 CONFIRMING THEIR WILLINGNESS TO ENGAGE IN COLLECTIVE BARGAINING AND PUBLISHED THIS IN A BLOG.

Changes to both Fair Representation principles has made achieving points more challenging this year. SweepSouth is one of only three platforms awarded a point for Fair Representation. SweepSouth made a public statement in 2021 confirming their willingness to engage in collective bargaining and published this in a blog. However, because the right to organise, collectively express their wishes and to be listened to is so important for workers rights, SweepSouth have agreed to find a better and more visible way of conveying this commitment, like possibly making the statement part of their platform onboarding presentation.

There is still room for SweepSouth to improve the working conditions of its SweepStars. Most of the SweepStars

we interviewed were unhappy with the platform’s rating system, feeling that it is skewed. SweepStar ratings can only be improved by achieving a 5-star rating (the maximum possible) from a customer. One SweepStar explained “You are working hard but at the end of the day once someone is rating you 4 ... so boom, [your average customer rating] goes down [a lot]. It takes long to become a 5 star.” Thus, the workers claim their status on the platform is quickly affected by a poor rating, while improvements to their ratings are much harder to achieve. This is an important concern, as SweepSouth does not allocate work to SweepStars. Instead, customers use the rating system when selecting a SweepStar to provide cleaning services. The better their rating the more work a SweepStar is likely to receive.

High levels of unemployment in South Africa, estimated at 45.5% in the 15–64 years age bracket¹⁵, is also affecting work opportunities for platform workers. Evidence from our interviews with SweepStars this year indicates that workers are working on average approximately 50% less hours per week than reported in 2021. SweepSouth could assist workers by providing heightened training interventions targeted at good customer service and innovative ways for workers to reduce costs. For instance, one of the SweepStars we interviewed has worked out ways to find work and reduce costs. She has a background in the hospitality industry and understands the importance of keeping the client happy. She believes if she does that well, she will get high ratings and plenty of work. She also tries to minimise the number of areas she works in. She says working in one area allows her to get familiar with her surroundings. This saves her data costs because she doesn’t need to use her GPS to find the work location. Also, she tries to find appointments that are quite close together, where she can walk from one appointment to the other and not have to use public transport.

Workers' Stories

Princess* started working for platforms offering micro tasks after completing her Grade 12 and obtaining a national diploma from a local college. Like many young South Africans, she struggled to find any work opportunities once she had completed her studies. In desperation, she signed up for work on the digital labour platforms in 2020 despite misgivings about the benefits, saying that “actually, because I was desperate and I’m looking for a job even though [I know that] I’ll get those little peanuts, I’ll be able to buy myself something”.

Princess* lives in a small town in the KwaZulu-Natal province which, like many other small towns in South Africa, suffers from relatively poor internet infrastructure and cellular network coverage. This means she often loses network connectivity in the middle of a job and can’t complete the work, or by the time she connects to the platform the work has already been taken. Worse still, she will have incurred expenses like data and travel costs regardless of whether the work gets done.

The precarious nature of her income, coupled with unprecedented increases in fuel prices and a thirteen-year high in the rate of inflation in South Africa, puts Princess in the category of platform workers who are beginning to report their hourly costs as exceeding their hourly income. Princess is well aware of her precarious financial position doing this work, asking the platforms to “increase the payment because we are really fighting for ourselves here”. While platform work has not been easy for her, when asked what work she would rather do, Princess replied, “I don’t have an answer for that one. I don’t know what I could be

doing actually because I’m trying to find a job but then I’m not getting any job”. So, although she occasionally stops working for the platforms, as things become increasingly difficult, she invariably returns to them.



Akin* works as a delivery driver in the Gauteng province of South Africa. He has worked for the platform for about a year, after the platform he previously worked for closed. As a Nigerian national and despite holding a national diploma, work is not easy to find. Platform work offered him the opportunity to earn a reasonable income. But the money he earns has not lived up to his expectations and he feels the situation is getting worse.

He complains that “since I joined, I can’t say that I’ve been enjoying it, because I realise the amount of pay is not [what I expected]. According to the people around me doing it for a long time they said they were working nice and the app paid nicely, but now things have changed”. Akin is concerned that the platform keeps reducing the pay rate. He is at the point now where he must rely on tips to boost his income because he simply doesn’t earn enough from the platform to support his needs.

There is much about platform work that Akin enjoys, like the flexibility it affords to decide his own work schedule and the feelings of empowerment this brings. But the low income is a very real problem. He is angered by features in the app that require him to accept an order without knowing the delivery address. Akin explains, “When you get an order you won’t know where it’s going. You have to travel a lot of kilometres. By the time you finish the trip you discover the pay is just too low. It makes people so ... it makes us so sad and we become very angry.” Others on the platform report the same issue. Akin feels that greater transparency in where orders need to be delivered and the pay that comes with it will help him better manage his costs. As things stand, he feels the platform should increase the pay rates to improve the situation. He has tried previously to give voice to these concerns by participating in strike action, but he feels the strikes have done nothing to improve his working conditions. Akin says he will leave the platform if he sees a work opportunity with better pay.

*Names changed to protect worker identity



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THEMES IN FOCUS

Rising Costs and Platform Work

On 5th April 2022 the National State of Disaster in South Africa—a response to the COVID-19 pandemic—was lifted. To many this signalled a return to “normal” activities and the start of economic recovery for the country. However, this is proving difficult. The consumer inflation index for South Africa reached 7.4% in June 2022, the highest reading since May 2009¹⁶. The South African Reserve Bank attributes the increase to rising food and oil prices stemming from Russia’s invasion of Ukraine, with the upward trend unlikely to change in the short term¹⁷.

While all South African workers are exposed to these economic pressures, platform workers are especially vulnerable. All the platforms covered by this study classify their workers as independent contractors. Consequently, all the costs associated with doing their work must be covered by the workers themselves.

FOR MOST WORKERS, FUEL IS THE BIGGEST CONTRIBUTOR TO THEIR COSTS, EITHER BECAUSE OF THEIR WORK AS RIDE-HAILING OR DELIVERY DRIVERS OR, FOR THOSE DOING MICRO TASKS OR PROVIDING CLEANING SERVICES, THROUGH THE NEED TO COMMUTE BETWEEN MULTIPLE WORK ENGAGEMENTS EVERY DAY.

South Africa’s transport sector has seen the highest price acceleration, with the price of fuel having increased by 45.3%—the highest annual increase since the new CPI statistics were introduced¹⁸. Fairwork interviews conducted with platform workers this year reveal that for most workers, fuel is the biggest contributor to their costs, either because of their work as ride-hailing or delivery drivers or, for those doing micro tasks or providing cleaning services, through the need to commute between multiple work engagements every day. In this fourth year of ranking platforms in South Africa, for the first time, some workers estimated that their hourly costs (which included an apportionment of their fixed costs) exceeded their estimated hourly pay. This situation has been reported by a handful of workers across several platforms.

FOR THE FIRST TIME, SOME WORKERS ESTIMATED THAT THEIR HOURLY COSTS EXCEEDED THEIR ESTIMATED HOURLY PAY.

Fairwork principles relating to Fair Pay are particularly relevant in this pressurised economic climate. As in previous years, some platforms continue to adhere to Fair Pay principles. getTOD, Kandua, M4JAM, NoSweat, Picup, and SweepSouth all met the National Minimum Wage (NMW) requirement of R23.19/ph¹⁹ after costs. Four of these, getTOD, Kandua, M4JAM, and NoSweat also met the Fairwork Living Wage requirement for South Africa for 2022 of R43/ph after costs. However, more than half of the platforms in this study fall short by failing to meet even the NMW. The hourly pay of platform workers is dependent on the base pay rate set by platform companies for platform services and the rate of commission taken by the platform

for each engagement. While some platforms accommodate a level of negotiation of the rate between clients and workers, the base rate is usually set by the platform. The base rate for services and the platform commission contributes to the cost of services and therefore to platform competitiveness in the market. Most of the workers we interviewed this year answered “No” when asked whether platform base rates had increased during their time on the platform.

Rising costs create a problem for both platform workers and platform companies. For platform workers there is a direct impact on their take home pay. Platform workers are therefore finding it increasingly difficult to make ends meet,²⁰ putting additional pressure on them to accept work that carries a high risk of exposure to criminal activity²¹.

PLATFORM WORKERS ARE FINDING IT INCREASINGLY DIFFICULT TO MAKE ENDS MEET, PUTTING ADDITIONAL PRESSURE ON THEM TO ACCEPT WORK THAT CARRIES A HIGH RISK OF EXPOSURE TO CRIMINAL ACTIVITY.





of the workers we interviewed this year this year raised safety as one of their main challenges doing platform work.

Almost half the workers we interviewed this year raised safety as one of their main challenges doing platform work. These workers try to avoid working after dark or in high-risk areas, despite the resulting loss of earnings. Their concerns were brought into focus recently in the brutal murder in June 2022 of Abongile Mafalala, a ride hailing driver, who accepted a ride request from a Cape Town suburb affected by gang-related violence²².

THE STRIKE BY RIDE-HAILING DRIVERS FROM UBER, BOLT, DIDI AND INDRIVER IN SOUTH AFRICA IN MARCH 2022 SAW BOLT INCREASE ITS BASE FARES ACROSS ALL ITS SERVICES, AND DRIVERS TO CALL ON THE GOVERNMENT TO REGULATE THE INDUSTRY

Platform companies also face problems stemming from the difficulty workers face in making ends meet. The most public of these is strike action. The strike by ride-hailing drivers from Uber, Bolt, DiDi and InDriver in South Africa in March 2022 saw Bolt increase its base fares across all its services, and drivers to call on the government to regulate the industry²³. Besides strike action, drivers also engage in more covert activities in efforts to improve their take home pay. For instance, some drivers take screenshots of client details and then contact the client offline with a better

pricing option, effectively entering into secret ride-hailing arrangements with platform clients²⁴. The platform loses the commission associated with the service and potentially any future business from the client. Several workers also report adopting a strategy of routinely checking pricing across platforms or searching for new platforms taking low commission. Workers then switch to alternative platforms if the pricing appears more favourable. This strategy seems realistic because the barriers to entry for some platform work is low, while platforms also accommodate an oversupply of workers to satisfy client expectations of immediate service²⁵. About half the workers we interviewed this year work on more than one platform, and most of them believe leaving a platform for an alternative, usually a competitor, is a viable option. In these instances, platform companies face additional costs like the training of new recruits to replenish the loss of experienced workers. Most of the workers we interviewed this year reported they received training on how to use the platform app when they joined the platform.

Platform companies have the option to increase base rates or to reduce their commission in response to the rising costs that workers are facing. However, increasing the base rate is not considered effective by platform workers; evidence from Fairwork interviews and other sources²⁶ indicates that workers would prefer to see platform companies reduce their commission. Some workers we interviewed suggested other options that would assist in managing their costs. These included improvements to the app to co-locate work opportunities, reduce travel costs, and improve transparency in available work options, which would allow workers better control over waiting time.

Platform changes

This is the fourth annual round of Fairwork ratings for South African platforms. In this post-pandemic era, inflation has been on the increase around the world, with food and energy prices hitting record highs. The South African platform economy has not been spared. The low scores for eight of the thirteen platforms indicate an urgent need for regulatory reform, monitoring and enforcement. The positive scores by the top five platforms point to the possibility of a better and fairer platform economy. Platform work can also mean decent and fair work.

Principle 1

- getTOD has reduced the commission they claim for labour (25%) and materials (5%) on each work engagement, to 20% on labour only.
- Besides an inflationary increase to base delivery fees this year, Mr D has introduced a variable fuel surcharge to compensate drivers for additional costs arising from fuel increases. Several increases in line with changes in the fuel price have been made since the surcharge was introduced at the end of 2021.

Principle 2

- As part of their commitment to upskilling their tradespeople, getTOD has trained more than 60 small companies across South Africa on how to install smart devices, and it continues to do so.

Principle 3

- SweepSouth has structured the contract differently, reorganised the content, and simplified the language to make terms and conditions clearer for workers.

Principle 4

- Mr D are making continuous progress in contracting more females into their workforce. Female driver representation has increased from 11.5% in 2021, to 13.9% in 2022.
- SweepSouth have changed their terms and conditions to include the process for workers to appeal low ratings, non-payment, payment issues, deactivations, and other penalties and disciplinary actions.

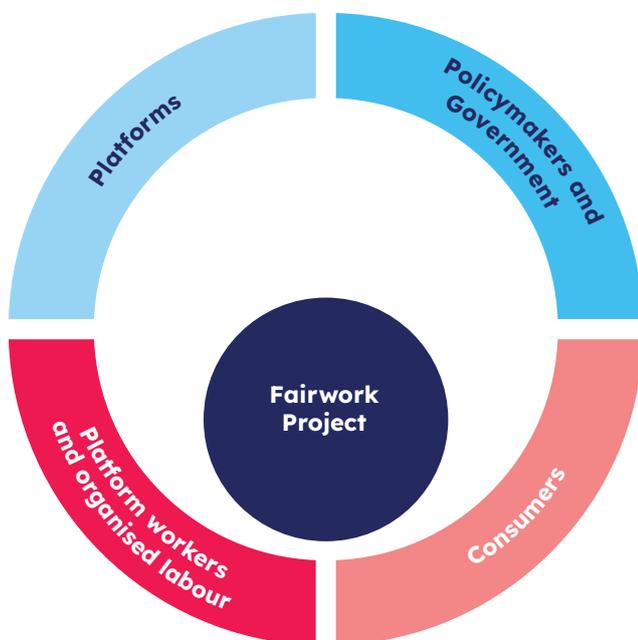
Principle 5

- getTOD continues to reach out in attempts to identify associations willing to work with them to assist workers to organise, collectively express their wishes and be listened to.
- SweepSouth made a public statement in 2021 confirming their willingness to engage in collective bargaining and published this in a blog. SweepSouth have now agreed to find a better way of conveying this commitment to platform workers, like possibly making the statement part of their platform onboarding presentation.

Pathways to change

In previous years, we noted several improvements that platforms have introduced. This year, we focus on the improvements that platforms and policy makers should be focussing on to reduce precarity in the post-pandemic platform economy. We continue to see the importance of Fairwork's theory of change as a guide for continuous improvement of the South African platform economy. This theory of change incorporates four pathways to improving working conditions for platform workers namely engaging with platforms, policymakers, workers and consumers.

Figure 1: Pathways of Change)



Engaging with platforms

The first pathway to improving working conditions for workers is by engaging directly with platforms to find solutions to improve the lives of workers by leveraging

Fairwork's global research on the platform economy. The South African economy took almost 2 years to for its GDP to return to pre-pandemic levels²⁷. In addition to this sluggish economic recovery²⁸, natural disasters²⁹, electricity shortages and five-year high consumer inflation³⁰ levels will continue adding pressures on employment, wages and working conditions.

It is therefore critical, going forward, that platforms make a concerted effort to deal with the potential deterioration of working conditions for the vulnerable platform workers. Platforms should ensure that work-related costs do not push workers below local living wage. Platforms should also device ways to ensure that workers are protected against income loss particularly where workers are suddenly unable to work due to sickness, accidents, and other unexpected circumstances. Platforms should also improve management transparency and policies to ensure even-handedness and non-discrimination when dealing with worker grievances. Finally, platforms should consistently move towards seeking fair representation for workers for them to have a meaningful say in the conditions of their work. This could be through a democratically governed cooperative model, a formally recognised union, or the ability to undertake collective bargaining with the platform.

Engaging with policymakers

The second pathway is to engage with policy makers to advocate for the rights and protection of South African platform workers. The foremost issue that policymakers should pay attention to is the provision of adequate and meaningful protections to protect workers regardless of their classification. This should also extend to social protections such as leave, overtime, maternity and paternity benefits. Labour protections should be aimed at ensuring decent and living pay standards for workers.

Engaging with workers

Platform workers in South Africa often organise informally, via social networking groups or as they congregate while waiting for directions from leaders. These platforms serve as spaces for belonging, self-help, and strategy exchange rather than collective associations that have recognised bargaining power with platforms. Multiple stakeholders such as the media, civil society organisations, government, research communities, and customers are enjoined to continue supporting the promotion of fair labour in the platform economy. To do so, a greater awareness of the precarious conditions of workers in this economy must be facilitated. Through this report, Fairwork South Africa intends to contribute to this discussion meaningfully.

Consumer power

Fairwork's theory of change also draws on the understanding that human empathy is a powerful force. Given enough information, many consumers will be intentional about the platforms they choose to interact with. We aim to improve the number of organisations that will sign the Fairwork pledge to encourage organisations to publicly endorse our work and making our scores available to their staff or members for increased Fairwork principle visibility as well as committing to meaningful changes in their own practices. Our yearly ratings give consumers the means to choose the highest scoring platform operating in a sector, thus contributing to pressure on platforms to improve their working conditions and their scores. In this way, we enable consumers to be workers' allies in the fight for a fairer platform economy.

Beyond individual consumer choices, our scores can help inform the procurement, investment and partnership policies of large organisations. They can serve as a reference for institutions and companies who want to ensure they are

supporting fair labour practices. Customers and the broader public may not fully realise that their delivery person or driver is a worker who should be entitled to basic labour rights and privileges. Neither might they be fully aware of the responsibilities of platforms towards their workers, and how platforms can improve these conditions.

We hope to engage and influence as many actors as possible who can help promote and act towards Fairwork's vision for a fairer world of work.

The Fairwork Pledge

In addition to proposing new legislation, and as part of the Fairwork project's process of change, we have introduced a Fairwork pledge. This pledge leverages the power of organisations' procurement, investment, and partnership policies to support fairer platform work. Organisations like universities, schools, businesses, and charities who make use of platform labour can make a difference by supporting the best labour practices, guided by our five principles of fair work. Organisations who sign the pledge get to display our badge on company materials.

The pledge consists of two levels. The first is as an official Fairwork Supporter, which entails publicly demonstrating support for fairer platform work, and making resources available to staff and members to help them in deciding which platforms to engage with. A second level of the pledge entails organisations committing to concrete and meaningful changes in their own practices as official Fairwork Partners, for example by committing to using better-rated platforms where there is a choice.

To date, organisations in Bangladesh, Germany, India, Kenya, Turkey, the UK and the US have signed up as Supporters and Partners, and we look forward to those in South Africa following these examples. This year, the Fairwork South Africa team contacted over 200 organisations to join the Fairwork pledge. It is our hope that the message of the pledge will be embraced by organisations in South Africa.

More information about the pledge and how to sign up is available at www.fair.work/pledge



APPENDIX

Fairwork Scoring System

Which companies are covered by the Fairwork principles?

The International Labour Organisation (ILO) defines a “digital labour platform” as an enterprise that mediates and facilitates “labour exchange between different users, such as businesses, workers and consumers”[i]. That includes digital labour “marketplaces” where “businesses set up the tasks and requirements and the platforms match these to a global pool of workers who can complete the tasks within the specified time”[ii]. Marketplaces that do not facilitate labour exchanges - for example, Airbnb (which matches owners of accommodation with those seeking to rent short term accommodation) and eBay (which matches buyers and sellers of goods) - are obviously excluded from the definition. The ILO’s definition of “digital labour platform” is widely accepted and includes many different business models[iii].

Fairwork’s research covers digital labour platforms that fall within this definition that aim to connect individual service providers with consumers of the service through the platform interface. Fairwork’s research does not cover platforms that mediate offers of employment between individuals and employers (whether on a long-term or on a temporary basis).

Fairwork distinguishes between two types of these platforms. The first, is ‘geographically-tethered’ platforms

where the work is required to be done in a particular location such as delivering food from a restaurant to an apartment, driving a person from one part of town to another or cleaning. These are often referred to as ‘gig work platforms’. The second is ‘cloudwork’ platforms where the work can, in theory, be performed from any location via the internet.

The thresholds for meeting each principle are different for location-based and cloudwork platforms because location-based work platforms can be benchmarked against local market factors, risks/harms, and regulations that apply in that country, whereas cloudwork platforms cannot because (by their nature) the work can be performed from anywhere and so different market factors, risks/harms, and regulations apply depending on where the work is performed.

The platforms covered by Fairwork’s research have different business, revenue and governance models including employment-based, subcontractor, commission-based, franchise, piece-rate, shift-based, and subscription models. Some of those models involve the platforms making direct payments to workers (including through sub-contractors).

How does the scoring system work?

The five Principles of Fairwork were developed through an extensive literature review of published research on job quality, stakeholder meetings at UNCTAD and the ILO in Geneva (involving platform operators, policymakers, trade unions, and academics), and in-country meetings with local stakeholders.

Each Fairwork Principle is divided into two thresholds. Accordingly, for each Principle, the scoring system allows the first to be awarded corresponding to the first threshold, and an additional second point to be awarded corresponding to the second threshold (see Table 1).

The second point under each Principle can only be awarded if the first point for that Principle has been awarded. The thresholds specify the evidence required for a platform to receive a given point. Where no verifiable evidence is available that meets a given threshold, the platform is not awarded that point. A platform can therefore receive a maximum Fairwork score of ten points. Fairwork scores are updated on a yearly basis; the scores presented in this report were derived from data pertaining to the 12 months between August 2021 and August 2022, and are valid until August 2023.

Table 1 Fairwork: Scoring System

Principle	First Point	Second Point	Total
 Principle 1: Fair Pay	 Ensures workers earn at least the local minimum wage after costs	 Ensures workers earn at least a local living wage after costs	 2
 Principle 2: Fair Conditions	 Mitigates task-specific risks	 Provides a safety net	 2
 Principle 3: Fair Contracts	 Provides clear and transparent terms and conditions	 Ensures that no unfair contract terms are imposed	 2
 Principle 4: Fair Management	 Provides due process for decisions affecting workers	 Provides equity in the management process	 2
 Principle 5: Fair Representation	 Assures freedom of association and the expression of collective worker voice	 Supports democratic governance	 2

Maximum possible Fairwork Score



Principle 1: Fair Pay

1.1 Ensures workers earn at least the local minimum wage after costs (one point)

Platform workers often have substantial work-related costs to cover, such as transport between jobs, supplies, or fuel, insurance, and maintenance on a vehicle.³¹ Workers' costs sometimes mean their take-home earnings may fall below the local minimum wage.³² Workers also absorb the costs of extra time commitment, when they spend time waiting or travelling between jobs, or other unpaid activities necessary for their work, which are also considered active hours.³³ To achieve this point platforms must ensure that work-related costs do not push workers below local minimum wage

The platform takes appropriate steps to ensure:

- Workers earn at least the local minimum wage, or the wage set by collective sectoral agreement (whichever is higher) in the place where they work, in their active hours, after costs.³⁴

1.2 Ensures workers earn at least a local living wage after costs (one additional point)

In some places, the minimum wage is not enough to allow workers to afford a basic but decent standard of living. To achieve this point platforms must ensure that work-related costs do not push workers below local living wage.

The platform takes appropriate steps to ensure:

- Workers earn at least a local living wage, or the wage set by collective sectoral agreement (whichever is higher) in the place where they work, in their active hours, after costs.^{35,36}

Principle 2: Fair Conditions

2.1 Mitigates task-specific risks (one point)

Platform workers may encounter a number of risks in the course of their work, including accidents and injuries, harmful materials, and crime and violence. To achieve this point platforms must show that they are aware of these risks and take steps to mitigate them.

The platform must satisfy the following:

- There are policies or practices in place that protect workers' health and safety from task-specific risks.³⁷
- Platforms take adequate, responsible and ethical data protection and management measures, laid out in a documented policy.

2.2 – Provides a safety net (one additional point)

Platform workers are vulnerable to the possibility of abruptly losing their income as the result of unexpected or external circumstances, such as sickness or injury. Most countries provide a social safety net to ensure workers don't experience sudden poverty due to circumstances outside their control. However, platform workers usually don't qualify for protections such as sick pay, because of their independent contractor status. In recognition of the fact that most workers are dependent on income they earn from platform work, platforms can achieve this point by ensuring that workers are compensated for loss of income due to inability to work.

The platform must satisfy BOTH of the following:

- Platforms take meaningful steps to ensure that workers are compensated for income loss due to inability to work commensurate with the worker's average earnings over the past three months.
- Where workers are unable to work for an extended period due to unexpected circumstances, their standing on the platform is not negatively impacted.

Principle 3: Fair Contracts

3.1 Provides clear and transparent terms and conditions (one point)

The terms and conditions governing platform work are not always clear and accessible to workers.³⁸ To achieve this point, the platform must demonstrate that workers are able to understand, agree to, and access the conditions of their work at all times, and that they have legal recourse if the other party breaches those conditions.

The platform must satisfy ALL of the following:

- The party contracting with the worker must be identified in the contract, and subject to the law of the place in which the worker works.
- The contract is communicated in full in clear and comprehensible language that workers could be expected to understand.
- The contract is accessible to workers at all times.
- Every worker is notified of proposed changes in a reasonable timeframe before changes come into effect;³⁹ and the changes should not reverse existing accrued benefits and reasonable expectations on which workers have relied.

3.2 – Ensures that no unfair contract terms are imposed (one additional point)

In some cases, especially under ‘independent contractor’ classifications, workers carry a disproportionate amount of risk for engaging in a contract with the service user. They may be liable for any damage arising in the course of their work, and they may be prevented by unfair clauses from seeking legal redress for grievances. To achieve this point, platforms must demonstrate that risks and liability of engaging in the work is shared between parties.

Regardless of how the the contractual status of the worker is classified, the platform must satisfy BOTH of the following:

- Takes appropriate steps to ensure that the contract does not include clauses which exclude liability for negligence nor unreasonably exempt the service user and/or the platform from liability for working conditions.
- Takes appropriate steps to ensure that the contract does not include clauses which prevent workers from effectively seeking redress for grievances which arise from the working relationship.

Principle 4: Fair Management

4.1 Provides due process for decisions affecting workers (one point)

Platform workers can experience arbitrary deactivation; being barred from accessing the platform without explanation, and potentially losing their income. Workers may be subject to other penalties or disciplinary decisions without the ability to contact the service user or the platform to challenge or appeal them if they believe they are unfair. To achieve this point, platforms must demonstrate an avenue for workers to meaningfully appeal disciplinary actions.

The platform must satisfy ALL of the following:

- There is a channel for workers to communicate with a human representative of the platform. This channel is documented in a contract and available on the platform interface. Platforms should respond to workers within a reasonable timeframe.
- There is a process for workers to meaningfully appeal low ratings, non-payment, payment issues, deactivations, and other penalties and disciplinary actions. This process is documented in a contract and available on the platform

interface.³⁹

- In the case of deactivations, the appeals process must be available to workers who no longer have access to the platform.
- Workers are not disadvantaged for voicing concerns or appealing disciplinary actions.

4.2 – Provides equity in the management process (one additional point)

The majority of platforms do not actively discriminate against particular groups of workers. However, they may inadvertently exacerbate already existing inequalities in their design and management. For example, there is a lot of gender segregation between different types of platform work. To achieve this point, platforms must show not only that they have policies against discrimination, but also that they seek to remove barriers for disadvantaged groups, and promote inclusion.

Platforms must satisfy ALL of the following:

- There is a policy which ensures the platform does not discriminate on grounds such as race, social origin, caste, ethnicity, nationality, gender, sex, gender identity and expression, sexual orientation, disability, religion or belief, age or any other status.
- Where persons from a disadvantaged group (such as women) are significantly under-represented among a pool of workers, it seeks to identify and remove barriers to access by persons from that group.
- It takes practical measures to promote equality of opportunity for workers from disadvantaged groups, including reasonable accommodation for pregnancy, disability, and religion or belief.
- If algorithms are used to determine access to work or remuneration or the type of work and pay scales available to workers seeking to use the platform, these are transparent and do not result in inequitable outcomes for workers from historically or currently disadvantaged groups.
- It has mechanisms to reduce the risk of users discriminating against workers from disadvantaged groups in accessing and carrying out work.

Principle 5: Fair Representation

5.1 Assures freedom of association and the expression of worker voice (one point)

Freedom of association is a fundamental right for all workers, and enshrined in the constitution of the International Labour Organisation, and the Universal Declaration of Human Rights. The right for workers to organise, collectively express their wishes – and importantly – be listened to, is an important prerequisite for fair working conditions. However, rates of organisation amongst platform workers remain low. To achieve this point, platforms must ensure that the conditions are in place to encourage the expression of collective worker voice. Whether or not platforms set the terms on which workers are retained by service users, platforms must demonstrate that they have taken appropriate steps to ensure that workers are informed of their rights (and have mechanisms in place to help protect those rights) and that workers are directed to appropriate collective bodies or trade unions.

Platforms must satisfy ALL of the following:

- There is a documented mechanism for the expression of collective worker voice.
- There is a formal policy of willingness to recognise, or bargain with, a collective body of workers or trade union, that is clearly communicated to all workers.⁴⁰
- Freedom of association is not inhibited, and workers are not disadvantaged in any way for communicating their concerns, wishes and demands to the platform.⁴¹

5.2 Supports democratic governance (one additional point)

While rates of organisation remain low, platform workers' associations are emerging in many sectors and countries. We are also seeing a growing number of cooperative worker-owned platforms. To realise fair representation, workers must have a say in the conditions of their work. This could be through a democratically governed cooperative model, a formally recognised union, or the ability to undertake collective bargaining with the platform.

The platform must satisfy at least ONE of the following:

1. Workers play a meaningful role in governing it.
2. It publicly and formally recognises an independent

collective body of workers, an elected works council, or trade union.

3. It seeks to implement meaningful mechanisms for collective representation or bargaining.

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- 31 Work-related costs include direct costs the worker may incur in performing the job. This may include, for instance, transport in between jobs, supplies, vehicle repair and maintenance, fuel, road tolls and vehicle insurance. However, it does not include transport to and from the job (unless in-between tasks) nor taxes, social security contributions or health insurance.
- 32 The ILO defines minimum wage as the “minimum amount of remuneration that an employer is required to pay wage earners for the work performed during a given period, which cannot be reduced by collective agreement or an individual contract.” Minimum wage laws protect workers from unduly low pay and help them attain a minimum standard of living. The ILO's Minimum Wage Fixing Convention, 1970 C135 sets the conditions and requirements of establishing minimum wages and calls upon all ratifying countries to act in accordance. Minimum wage laws

exist in more than 90 per cent of the ILO member states.

33 In addition to direct working hours where workers are completing tasks, workers also spend time performing unpaid activities necessary for their work, such as waiting for delivery orders at restaurants and travelling between jobs. These indirect working hours are also considered part of active hours as workers are giving this time to the platform. Thus, 'active hours' are defined as including both direct and indirect working hours.

34 In order to evidence this, where the platform is responsible for paying workers the platform must either: (a) have a documented policy that ensures the workers receive at least the local minimum wage after costs in their active hours; or (b) provide summary statistics of transaction and cost.

35 Where a living wage does not exist, Fairwork will use the Global Living Wage Coalition's Anker Methodology to estimate one.

36 In order to evidence this, where the platform is responsible for paying workers the platform must either: (a) have a documented policy that ensures the workers receive at least the local living wage after costs in their active hours; or (b) provide summary statistics of transaction and cost data evidencing all workers earn a minimum wage after costs.

37 Where the platform directly engages the worker, the starting point is the ILO's Occupational Safety and Health Convention, 1981 (C155). This stipulates that employers shall be required "so far as is reasonably practicable, the workplaces, machinery, equipment and processes under their control are safe and without risk to health", and that "where necessary, adequate protective clothing and protective equipment [should be provided] to prevent, so far as is reasonably practicable, risk of accidents or of adverse effects on health."

38 The ILO's Maritime Labour Convention, 2006 (MLC 2006), Reg. 2.1, and the Domestic Workers Convention, 2011 (C189), Articles 7 and 15, serve as helpful guiding examples of adequate provisions in workers' terms and conditions, as well as worker access to those terms and conditions.

39 Workers should have the option of escalating grievances that have not been satisfactorily addressed and, in the case of automated decisions, should have the option of escalating it for human mediation.

40 For example, "[the platform] will support any effort by its workers to collectively organise or form a trade union. Collective bargaining through trade unions can often bring about more favourable working conditions."

41 See ILO (2021) World Employment and Social Outlook 2021: The role of digital labour platforms in transforming the world of work International Labour Office – Geneva

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Authors:

Sharon Geeling, Pitso Tsibolane, Kelle Howson, Mark Graham, Richard Heeks, Darcy du Toit, Jean Paul Van Belle, Murali Shanmugavelan

Fairwork Team:

Jana Ababneh, Pablo Aguera Reneses, Iftikhar Ahmad, Gina Alaschkar, Maria Belen Albornoz, Luis Pablo Alonzo, Moritz Altenried, Oğuz Alyanak, Hayford Amegbe, Branka Andjelkovic, Viridiana Ángel, Thomas Anning-Dorson, Eiser Carnero Apaza, Marcos Aragão, María Arnal, Arturo Arriagada, Daniel Arubayi, Tat Chor Au-Yeung, Ahmad Awad, Adam Badger, Marina Benedine, Ariane Berthoin Antal, Alessio Bertolini, Gautam Bhatia, Virgel Binghay, Richard Boateng, Manuela Bojadzijev, Ameline Bordas, Maren Borkert, Álvaro Briaes, Joseph Budu, Callum Cant, Rodrigo Carelli, Eduardo Carrillo, Chris King Chi Chan, Henry Chavez, Aradhana Cherupara Vadekkethil, Andrea Ciarini, Matthew Cole, Antonio Corasaniti, Pamela Custodio, Olayinka David-West, Nadia De Jesús Pacheco, Luisa De Vita, Alejandra S. Y. Dinegro Martínez, Brikena

Kapisyzi Dionizi, Markieta Domecka, Marta D'Onofrio, Elvira Drishti, Darcy du Toit, Veena Dubal, James Dunn-Willimason, Trevilliana Eka Putri, Nagham El Houssamy, Haya El Zayat, Batoul ElMehdar, Elisa Errico, Fabian Ferrari, Patrick Feuerstein, Roseli Figaro, Milena Franke, Sandra Fredman, Jackeline Gameleira, Pia Garavaglia, Chana Garcia, Beatriz García, Sharon Geeling, Navneet Gidda, Shikoh Gitau, Slobodan Golusin, Saúl Gomez, Mark Graham, Markus Griesser, Rafael Grohmann, Martin Gruber-Risak, Julieta Haidar, Khadiga Hassan, Richard Heeks, Mabel Rocío Hernández Díaz, Luis Jorge Hernández Flores, Victor Manuel Hernandez Lopez, Benjamin Herr, Kelle Howson, Lucero Pinedo Huerta, Francisco Ibáñez, Shahidul Islam, Neema Iyer, Tanja Jakobi, Athar Jameel, Abdul Bashiru Jibril, Hannah Johnston, Ermira Hoxha Kalaj, Zeynep Karlidag, Lucas Katera, Mishal Khan, Bresena Dema Kopluku, Maja Kovac, Martin Krzywdzinski, Amela Kurta, Ilma Kurtović, Amelinda Pandu Kusumaningtyas, Morad Kutkut, Arturo Lahera-Sánchez, Joy-Eveline Leeuw, Sebastian Lew, Jorge Leyton, Tatiana López Ayala, Bilahari M, Raiyaan Mahbub, Amruta Mahuli, Melissa Malala, Oscar Javier Maldonado, Laura Clemencia Mantilla León, Claudia Marà, Paolo Marinaro, Ana Flavia Marques, Margreta Medina, Caterina Morbiato, Nacef Mouri, Jamal Msami, Hilda Mwakatumbula, Baraka Mwaura, Mounika Neerukonda, Ana Negro, Sidra Nizambuddin, Thando Nkohla-Ramunenyiwa, Claudia Nociolini Rebecchi, Bonnita Nyamwire, Oluwatobi A. Ogunmokon, Kemi Ogunyemi, Caroline A Omware, Nermin Oruc, Christian Nedu Osakwe, Balaji Parthasarathy, Francesca Pasqualone, Obed Penu, Leonhard Plank, Frederick Pobee, Valeria Pulignano, Jack Linchuan Qiu, Ananya Raihan, Antonio Ramírez, Moisés K. Rojas Ramos, Juan-Carlos Revilla, Alberto Riesco-Sanz, Nabiyla Risfa Izzati, Nagla Rizk, Cheryll Ruth Soriano, Julice Salvagni, Derly Yohanna Sánchez Vargas, Maricarmen Sequera, Murali Shanmugavelan, Ruth Tarullyna Simanjuntak, André Sobczak, Shanza Sohail, Janaki Srinivasan, Anna Sting, Zuly Bibiana Suárez Morales, David Sutcliffe, Pradyumna Taduri, Kristin Thompson, Kiko Tovar, Pitso Tsibolane, Wing Yin Anna Tsui, Funda Ustek-Spilda, Jonas Valente, Jean-Paul Van Belle, Giulia Varaschin, Eduardo Vargas, Laura Vogel, Jing Wang, Robbie Warin, Nadine Weheba and Najlae Zhani.

External scoring reviewers:

Kelle Howson, Murali Shanmugavelan and Maria Belén Albornoz

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Designers

One Ltd. and ããã – Arwin Qaderi

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A COLLABORATION BETWEEN

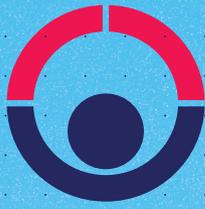


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