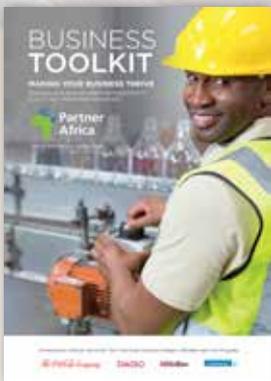




REGULAR EMPLOYMENT



A CHAPTER FROM THE BUSINESS TOOLKIT

This is only one chapter of the toolkit. You can download the full document or any of the other chapters from the Partner Africa website.
www.partnerafrica.org/business-toolkit

WELCOME

This toolkit provides practical assistance on how to improve **Productivity, Quality and Workforce Management – areas which are inextricably linked**. People are a core and valuable asset for every business and in order to have an efficient, productive business, employees need to work in good conditions. Partner Africa, through its extensive auditing, training and consulting work have found that workers who are safe, respected and content in their work are more efficient and productive. For instance, productivity is increased by reducing the need for sick days and constant recruitment and onboarding due to high worker turnover. The connection also flows in the other direction: as productivity and efficiency improves, there are opportunities to improve wages and reduce excessive working hours without impacting price.

Productivity, Quality and Workforce Management are all essential elements to building a lasting business and a strong partnership with purchasing companies into the future.

The group of companies and organisations behind this toolkit want to share best practice and learning across the industry. This toolkit gives suppliers practical assistance on how to improve productivity, quality and workforce management in production sites. It will enable you to understand each issue and why it matters for your business, what is required, what that means in practice and will also enable you to assess your current situation and provide you with practical tools to make the necessary improvements.

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Produced by Partner Africa for The Coca-Cola Company, Diageo, ABInBev and Aim-Progress



DIAGEO

ABInBev



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DISCLAIMER

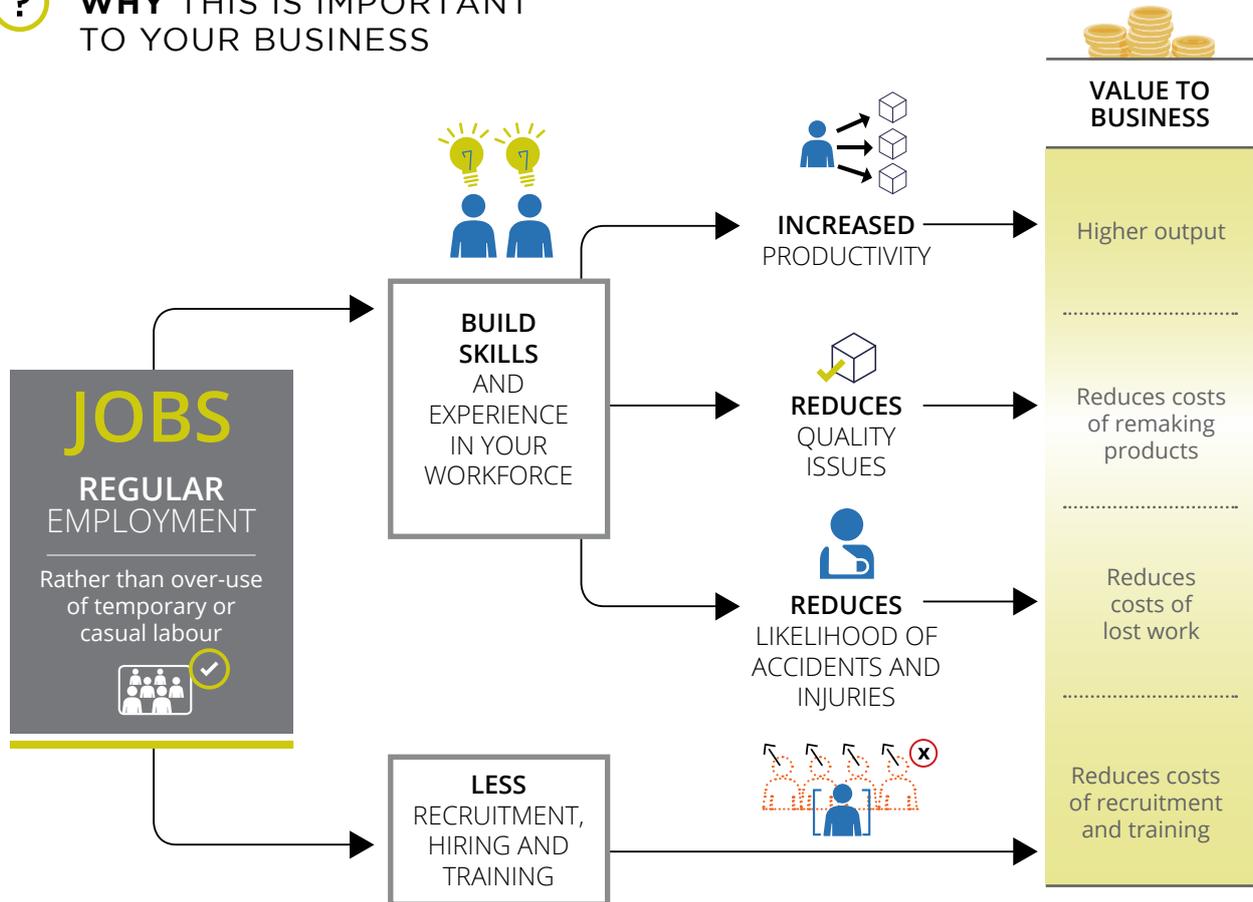
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The content of this Toolkit was developed by Partner Africa and consultants, in conjunction with the participating brands. Each company may have additional and/or specific requirements on the topics covered in this document and thus this Toolkit should be utilised as a reference guidance only.



6.5 REGULAR EMPLOYMENT

? WHY THIS IS IMPORTANT TO YOUR BUSINESS



✓ THE EXPECTATIONS

- To every extent possible, work performed should be on the basis of a recognised employment relationship established through national law and practice
- Every effort should be made to ensure employment is continuous, where possible.
- It is recognised that temporary/contract labour is necessary in some businesses but it shouldn't be used excessively, to avoid the legal requirements of regular employment





WHAT THIS MEANS IN PRACTICE

This section explains the details of what this means in practice and can also be used as a tool to self-assess your site.

Put a if you think that point is in place in your business and put a if it isn't or needs improvement. You can then create an action plan, to assign and follow up an action for every (sample action plans are given at the back of the toolkit).

- Obligations to employees under labour or social security laws and regulations arising from the regular employment relationship should not be avoided through the use of:
 - labour-only contracting
 - sub-contracting
 - home-working arrangements
 - apprenticeships schemes where there is no real intent to impart skill or provide regular employment
 - excessive use of fixed-term contracts of employment
- This does not mean that these types of employment should not be used at all, seasonality of many businesses means this is necessary but the point is that they should not be used excessively or in a way that is deliberately to avoid the legal requirements of regular employment*
- All workers (regular, contract, piece rate and home-workers) have formal, written employment agreements (including duration of contract, job functions, wages, hours, benefits, pay cycle, resignation and termination conditions/process), signed by both the worker and manager, in a language they can understand. The contents are clearly explained and workers should receive a copy
 - Copies of employment terms and conditions are provided to all workers
 - Probation periods comply with legal limits
 - Contract terms are not changed after the worker signs the contract/agreement
 - Workers are not asked to sign blank papers, forms or resignation letters
 - Agency and contract workers and homeworkers receive full legal and social security benefits
 - The company, its contractors and labour providers do not discharge and rehire workers to avoid paying permanent worker wages and benefits
 - The company, its contractors and labour providers don't employ workers on consecutive short-term temporary contracts
 - If you have temporary workers, there needs to be clear policies and practices on how long before they receive the same wages, benefits and conditions as permanent workers, after a fixed time period or as required by law. There should be effective systems in place to transition these workers to become permanent employees
 - Temporary workers and contract workers also receive H&S training, free personal protective equipment, access to the grievance mechanism etc
 - If you use labour contractors/ recruitment agencies, there needs to be a contract with them ensuring that all workers receive legal wages and benefits, including social security benefits
 - If you have an apprentice scheme, it needs to be for a limited period and there needs to be a clear and deliberate transfer of skills useful to permanent employment.
 - If you subcontract any work you need to ensure that those businesses understand your expectations in terms of legal wages, benefits, hours and regular employment



PRACTICAL TIPS AND TOOLS FOR IMPROVEMENT

Examining the use of temp workers

- Do you understand the full situation with temporary workers and contract workers in your business: the proportion of your workforce at different times, the duration of their employment and the reasons for using them?
- If you have identified an excessive use of temporary or contract workers in your company, think through and discuss with different people in management the following questions:
 - ◆ What is driving the need for temporary or contract workers rather than having more permanent workers? Is it just seasonal or is it other things, such as rush last minute orders? Or is it just habit of the company and the cost of employing more permanent staff seems too high?
 - ◆ If analysis of sales could give better forecasting and if production planning worked closely with Human Resources, could more realistic staffing and production plans be developed to minimise the use of temporary workers?

Labour employment agencies

- Is the labour broker/ employment agency a registered legal entity?
- What kind of relationship do you have with your labour providers/employment agencies?
- Do you trust that they are paying at least legal minimum wages and appropriate benefits?
- Do you even know what the workers are paid? If not, informally ask a sample of workers (anonymously) and also ask the labour provider
- Ensure that you sign a 'service agreement' with your labour provider/broker and that it states that they must pay legal wages and benefits and meet other legal requirements on working conditions including safety of transport and any accommodation. (A sample Service Agreement is given in Appendix 3, see page 110)
- Ensure that the labour provider gives workers contracts, including a termination clause
- Labour providers should give workers payslips at each pay period
- Ensure labour providers do NOT take financial deposits or original identity documents from workers and that workers are not indebted to them

TACKLING TOUGH SITUATIONS

WHAT DO YOU NOTICE



You hear via rumours that workers on your site aren't being paid the minimum wage by the labour provider. You feel this isn't any of your business because you don't pay them, you pay the labour provider.



PAUSE



THINK



WHAT NEXT

It is your business, because the workers are in your facility and you are the client of the labour provider. You should have a contract or 'service agreement' with the labour broker/provider which states that workers must be paid at least a legal minimum wage and legal benefits. Set up a meeting with the labour provider to discuss this and agree and sign an agreement (if you haven't already) and discuss practically how they will make the changes to the wages and benefits of workers.

APPENDIX 3

NOTE - IT IS YOUR RESPONSIBILITY TO CHECK THIS IS CONSISTENT WITH LOCAL LABOUR LAW IN YOUR COUNTRY. (This example is from South Africa and will need to be adapted to meet local requirements)

SERVICE AGREEMENT ¹⁰⁰

EXAMPLE OF A SERVICE AGREEMENT BETWEEN A PRODUCER AND LABOUR BROKER

Between

(insert name of temporary employment service)
Referred to as the "temporary employment service" in the Agreement

And

(insert name of client company)
Referred to as the "Client" in the Agreement

The temporary employment service _____ agrees to:

- (i) Employ and supply suitable employees to the Client.
- (ii) Be responsible for the disciplining of employees supplied to the Client.
- (iii) Be responsible for the total remuneration package of the employee.
- (iv) Monitor the progress of the employees and provide the necessary support and discipline to ensure the efficiency of the employees.
- (v) Make every effort to replace any employee who does not comply with the conditions stipulated in the Employment Contract.
- (vi) Provide professional assistance with regard to the handling of the employees.
- (vii) Ensure that assignees are insured in accordance with the requirements of local law.
- (viii) Ensure that employees are employed on conditions of service that are no less favourable than those stipulated in local law.
- (ix) Ensure that the business complies with all provisions of local labour law including the following.

Ensure that:

- No original identity documents or deposits are withheld from workers
- Workers have a copy of their signed contract
- Workers transport and accommodation is safe and healthy
- No children under 15 are employed and young workers (15-18) only work restricted hours in non-hazardous conditions
- All workers are paid at least the legal minimum wage and receive legal benefits
- All workers only work legal hours and have legal rest days
- No workers are discriminated against for any reason
- No workers receive any form of harassment or abuse
- All workers have access to be able to raise concerns or grievances without the threat of reprisal

The Client agrees to:

- (i) Inform the temporary employment service of any dissatisfaction regarding an employee's work performance or conduct and give the temporary employment service reasonable opportunity to rectify the situation should the Client find the work performance or conduct of the Employee unsatisfactory. In this regard the Client undertakes to advise the temporary employment service in writing immediately in the event of any employee:
 - (a) Intending to resign
 - (b) Being absent from work
 - (c) Being unable to attend work for any reason whatsoever
 - (d) Requiring disciplinary action.
- (ii) The Client shall ensure that the Employee is aware of and understands the internal Rules and Policies as well as the Safety Rules and Regulations applicable to the Client's workplace and agrees to provide the employee with any protective clothing and / or equipment at the Client's cost in order that the Employee might comply with these rules.

- (i) The temporary employment service shall be indemnified by the Client from any claim of whatsoever nature arising out of any loss, damage or injury sustained by the Employee whilst in the employ of the Client should the Client fail to ensure that the Employee abides by any Safety rule or requirement.
- (ii) The Client shall carry out all training of employees at the cost of the Client.
- (iii) In cases where the Employee was previously employed by the Client, the years of service worked for the Client will be acknowledged by the temporary employment service with the proviso that the Client shall be responsible for any payments or monies payable to the Employee up to and including the date on which the contract of employment was transferred to the temporary employment service. This shall include a pro rata share of any retrenchment package if applicable.
- (iv) Should the contract between the Client and the temporary employment service terminate for any reason, the Client shall either employ the Employee, alternatively the Client may request the temporary employment service to transfer the contract of employment to another temporary employment service. The temporary employment service will however endeavor to do so, but is under no obligation to have to find such alternative temporary employment service for the Client.

FEE

- (i) The Client will pay the temporary employment service a monthly fee calculated at “ _____ ”% of the value of the payroll, i.e. the total value of the wages and salaries payable to the employees of *the temporary employment service* assigned to the Client.
- (ii) All invoices are payable within seven (7) days of the date of the invoice.
- (iii) The fee referred to in (i) above, excludes the value of the following costs of employment which will be payable to the temporary employment service as a separate payment:
 - (a) [Names of government social insurance] _____ %
 - (b) [Other relevant payments/funds] _____ %
 - (c) [Other relevant payments/levies] _____ %

It is understood that these costs will be added to the monthly service fee.

- (iv) Should any of the abovementioned costs of employment increase as a result of amendments to current legislation or the introduction of new legislation, the Client agrees that the necessary amendments and adjustment shall be made to these amounts in order that they may be incorporated into the monthly service fee.

INDEMNITY

The Client hereby indemnifies the temporary employment service from all liability for any claim arising from any loss or damage to the Clients property or business interests caused by or arising from any act or omission by any employee of the temporary employment service while assigned to the Client.

I, hereby declare that the contents of this contract have been explained to me and that I fully understand and agree to abide by these conditions.

Signed at.....this.....day of..... month.....year

Name

Name

Signature.....
for the Temporary employment service

Signature
The Employee

Name

Name

Signature.....
For the Client

Signature
Witness

References

Example of a service agreement. Adapted from a sample provided by Sustainable Agriculture in South Africa. <https://siza.co.za/document-library/documents-templates/>