HRTorQue Outsourcing (Pty) Ltd

HRTorQue Reporter

March 2022

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Should you require any further detail on any of these topics, please feel free to contact us at info@hrtorque.co.za

1) Payroll payment challenges – post the challenges, what have we learnt and what is next?

Author: Jonathan Aitken

Friday the 25 March 2022 and the subsequent few days were a disaster for the payroll industry. As a result of technical issue at Standard Bank with their Bankserve connection (a basic file format error), hundreds of thousands of employees were not paid on the 25 March. Standard Bank scrambled to put things right over the weekend, but the repercussions amongst many South Africans were material.

This is not an uncommon situation worldwide and where this happens in the United Kingdom, for example, banks communicate the payment issues and the banking industry bands together so individual consumers are no worse off. There is a recognition that technical issues can and will happen. And if it happens to one bank this month it might happen to another in the future.

What did we learn in the same situation in South Africa?

- There are an inordinate number of employees operating hand to mouth, completely dependent on their payroll payment to meet debit orders (with little or no buffers). Any delay in payment (even by a day) can be catastrophic for these employees.
- There is no clear communication channel to let employees know about challenges and manage the process to help these consumers with their debit orders and to let them know when they will be paid.
- The relationship between employers and employees is generally not a good one. Where relationships are strained, employers immediately try to put the blame on somebody to protect their position. It becomes less about recognising a common issue faced by the entire industry and more about how the employer can make sure they don't face the blame.

What happens next?

- This week, duplicate and non-payments will need to be worked through to make sure that everyone that should have been paid, was paid and was paid correctly.
- We understand Standard Bank has indicated they will setup a task team to deal with any rejected direct debits (and we hope deal with any adverse credit rulings arising from this and any incremental costs incurred by individuals). It would be helpful if the other banks work with Standard Bank on this on the basic principle that they may be next. More info to follow as we get it.
- Hopefully, the banking sector works on improving their communication to help their customers, rather than communication solely for damage limitation.

- The payroll industry will need to look at alternatives to the way they pay employees – assuming these are available.It is not clear at this point what these options might be.

For HRTorQue clients, we are communicating with our payment providers on the way forward regarding how to claim for returned debit order costs and we will send a detailed email to those affected as soon as we have the details. Any clients who wish to also discuss alternative payment mechanisms can contact us on info@hrtorque.co.za.

2) What to expect from the legislative landscape in 2022

source www.nowhr.co.za

2021 has been another tough year for many, holding many new and additional challenges, it brought unrest resulting in looting of many workplaces, and the legislative landscape has been busier than ever, with a somewhat revenue-hungry SARS trying to find the means to make up for budget deficits.

In addition to the Budget Speech, here's our take on what to look out for in 2022: https://www.nowhr.co.za/2022/02/02/what-to-expect-from-the-legislative-landscape-in-2022/

These include:

- The COID reporting deadline – 31 March and now postponed to 31 May
- Interest rate changes – the repo rate increased to 4% in January 2022 and then to 4.25% again in March 2022 in response to increased inflation
- UIF – continued problems with the UIF department systems including UIF compliance certificates and WABU payments
- Home office expenses – SARS has rejected ~80% of home office claims
- Employment equity – the rollout of sector specific equity rules in 2022

3) 2022 National Minimum Wage announced

Author: Candice Zulu

In a gazette published on the 7th of February 2022, the labour minister, Thulas Nxesi, stated that the national minimum wage is now R23.19 for each ordinary hour worked. This change will take effect from the 1st of March 2022.

This represents an increase of 6.9% from the minimum wage of R21.69 set in 2021.

No specific worker groups have been provided exceptions, with the minimum wages for domestic workers and farmworkers now also set at R23.19 for each ordinary hour worked as part of a planned equalisation push. This represents a 21.5% increase for domestic workers.

In terms of the law, it is an unfair labour practice for an employer to unilaterally alter hours of work or other conditions of employment in implementing the national minimum wage.

The national minimum wage is the amount payable for the ordinary hours of work and does not include payment of allowances (such as transport, tools, food or accommodation) payments in kind (board or lodging), tips, bonuses and gifts.

We would like to urge all our clients to take note and make the necessary adjustments.

If you require any additional information in this regard, please contact hra@hrtorque.co.za

4) BCEA Earnings Threshold Increase

Author: Candice Zulu

On the 9th February 2022, the Minister of Employment and Labour issued a notice via Gazette No. 45890 that increases the BCEA (Basic Conditions of Employment Act) earnings threshold from R211 596,30 to R224 080,48 per annum with effect from 1 March 2022.

What does the BCEA Earnings Threshold apply to?

In a nutshell, the BCEA earnings threshold governs the sections of the BCEA that regulate the hours of work. The notice states:

"... all employees earning in excess of R224 080,48 (two hundred and twenty four thousand, and eighty rand, forty eight cents) per annum [must] be excluded from sections 9, 10, 11, 12, 14, 15, 16, 17(2) and 18(3) [of the BCEA]".

This means that employees who earn more than the BCEA earnings threshold are excluded from sections of the BCEA and are therefore not entitled to the automatic protection and rights provided by the following sections:

- Section 9 (Ordinary hours of work)
- Section 10 (Overtime)
- Section 11 (Compressed working week)
- Section 12 (Averaging of hours of work)
- Section 14 (Meal intervals)
- Section 15 (Daily and weekly rest period)
- Section 16 (Pay for work on Sundays)
- Section 17(2) (Night work)
- Section 18(3) (Public holidays not ordinarily worked)

It is only employees that earn below the BCEA threshold that enjoy the protection of these sections of the BCEA, and for example, are entitled to overtime pay at a rate of 1.5 times the normal hourly wage rate.

Employees that earn above the threshold are precluded from these automatic protections (e.g. they are not automatically entitled to overtime). These provisions of the BCEA must then be provided for in the employment contract.

What are 'BCEA Earnings'?

The notice defines 'Earnings' to be:

"... the regular annual remuneration before deductions, i.e. income tax, pension, medical and similar payments but excluding similar payments (contributions) made by the employer in respect of the employee: Provided that subsistence and transport allowances received, achievement awards and payments for overtime worked shall not be regarded as remuneration for the purpose of this notice."

In the BCEA 'remuneration' is defined as "... any payment in money or in kind, ...made ...in return for that person working for any other person." BCEA remuneration is a complex subject and is not discussed in this article.

In short, excluded from BCEA remuneration are:

- Allowances
- Benefits that are not granted in return for 'work done' (in other words, benefits that are granted in return for 'work done' are BCEA remuneration).

Should you require any assistance with the interpretation of this legislation or its impact on your business please do not hesitate to contact our HR Team on hra@hrtorque.co.za.

5) COID deadline

Source: **www.nowhr.co.za**

Employers registered for COID are reminded to **submit their Returns of Earnings** in terms of Section 82 of the COID Act. Returns are to be filed **no later than 31 March**.

The implication of submitting late or not submitting at all will give you the rise to penalties and in addition, a recent notice signed by Commissioner of Compensation, stated that should an employer fail to submit a Return of Earnings submission (ROE), then in accordance with section 82 of the COID Act, the Director General is empowered to finalise the employer`s assessment by estimating such an employer`s earnings for the year.

Please do not allow the Director General to assess for you as the time and cost to fix this will be excessive.

6) Employment Equity

Source: **www.nowhr.co.za**

Employment Equity reports were due to 15 January 2022 but that's not the end of your employment Equity demands for the year. According to BusinessTech, the Employment Equity landscape is seeing some new developments. **Parliament`s National Assembly passed Employment Equity Amendment Bill in 2021** and has sent a draft law to the National Council of Provinces for concurrence.

This bill will allow the Employment and Labour minister Thulas Nxesi to set Employment Equity targets for different business sector. The minister can set a target for different occupational levels, sub-sectors or regions.

It also aims to reduce the regulatory burden or small businesses and add rules for doing business with the government. The Department of Employment and Labour has previously indicated that it plans to introduce the new sector-specific equity rules in 2022.

The expected introduction of five-year sector targets is seen to be the marking of a "clean slate".

There`s a catch and some additional work for Payroll and HR teams: All existing Employment Equity **plans will fall away on 22 September 2022**, and new plans will **have to be aligned with the five-year target**.

7) South African Budget Speech 2022 Recap

Author: David Beattie

2022 BUDGET HIGHLIGHTS

The backdrop to this year's budget is two years of Covid-19 and our future recovery efforts. Households are cash-strapped and trying to make ends meet due to job losses and business failures arising from the ravages of the pandemic. The South African economy has rebounded better than expected over the past year and tax collections for 2021 are likely to exceed the February 2021 National Budget projections by in the region of **R182 billion**. This is also more than R62 billion more than was projected in the Medium-Term Policy Review, largely due to collections resulting from buoyant commodity prices.

It was noted though that ***commodity prices slowed*** in the second half of 2021. Violent unrest in July and the restriction of the third wave eroded gains we made in the first half of the year together with industrial action in the manufacturing sector and the re-emergence of loadshedding.

The highlights (or in some cases lowlights) are:

- The revised economic growth estimate is ***4.8% from 5.1%*** at the time of the MTBPS.
- Of concern still is that ***R330 billion*** of South Africa's tax revenue is going to servicing of debt which has reached R4.3 trillion and is projected to rise to R5.4 trillion over the medium-term. Unless we strengthen the economy urgently and broaden the tax base, more borrowing might be required which we can ill afford.
- GDP growth of ***2.1%*** is projected for 2022. Over the next 3 years GDP growth is expected to average 1.8%. This is way too low to even make a dent into the unemployment stats.
- SA still has a very high personal income tax (PIT) rate in world terms. ***PIT falls disproportionately on a small percentage of the tax base***. National Treasury has committed to increasing the tax base through greater economic growth, employment and tax collection rather than increasing tax rates. This is unlikely until the informal sector is brought into the tax net.
- It is stated that ***seven million people in total pay income tax***. Two million of them pay only 3% of the income tax. That means that a very small group of people pay the majority of the tax. This is complicated by the fact that 18 million people or ***30% of the population receive social grants***. This is certainly not a sustainable model and it's clear that Government needs to make some hard decisions to get the tax burden spread amongst more people.

- The Minister followed through with the commitment to lower the corporate income tax rate to ***27%*** for companies with tax years ending 31 March 2023, alongside a broadening of the corporate income tax base by ***limiting interest deductions*** and ***assessed losses***.
- The consolidated budget deficit is projected to narrow from ***6% of GDP in 2022/2023 to 4.2% of GDP in 2024/2025***.
- Gross loan debt will stabilize at ***75.1% of GDP*** in 2024/2025. This percentage is still very concerning.
- ***Debt-service costs*** consume an increasing share of GDP and revenue. They are expected to average ***R333.4 billion*** a year. This is money that is no longer available to plough into education and infrastructure development.
- Total consolidated government spending will amount to R 6.62 trillion over the next three years, and the ***social wage will take up 59.4% of total non-interest spending*** over this period. This tells us how much social welfare drains the fiscus's coffers.
- ***Additional allocations*** of R110.8 billion in 2022/2023, R60 billion in 2023/2024 and R56.6 billion in 2024/2025 are made for several priorities that could not be funded through reprioritisation. These include the special COVID-19 social relief of ***distress grant***, the continuation of ***bursaries*** for students benefiting from the National Student Financial Aid Scheme, and the ***presidential employment initiative***.
- The bulk of the spending is allocated to ***learning and culture*** (R1.3 trillion), ***social development*** (R1 trillion) and ***debt-service costs*** (R1 trillion) over the MTEF.
- ***Tax revenue strengthened*** significantly in recent months and is expected to reach R1.55 trillion for 2021/2022, well above projections. Corporate income and profit have been more resilient than anticipated and collection of both PIT and VAT has been above expectations.
- Given the revenue improvement, government proposes ***R5.2 billion in tax relief to help support the economic recovery***, provide some respite from ***fuel tax*** increases and boost incentives for ***youth employment***. Most of the relief is provided through an ***adjustment in PIT brackets and rebates***.
- This relief is mainly targeted at individuals in the middle-income groups. The personal income tax brackets and the primary, secondary and tertiary ***rebates will be increased by 4.5 per cent*** for 2022/23, which is in line with the inflation rate.
- In a surprising move there was ***no increase*** in either the ***general fuel levy*** or the ***Road Accident Fund levy***. This will provide tax relief of R 3.5 billion to South Africans.
- Progress continues to be made in ***rebuilding*** the ***South African Revenue Service***.
- There is an intention to consult on ***changes to Regulation 28*** shortly to enable ***greater investment in infrastructure*** by retirement funds. These changes will be gazetted next month. There has been some resistance to this suggestion, particularly if there is '***forced***' investment.
- The offshore limit for all insurance, retirement and savings funds is harmonised at ***45 per cent*** inclusive of the 10 per cent African allowance. The previous maximum limits were set at 30 per cent or 40 per cent for different investors.
- There will be further consultation on the ***two-pot system*** and the intended draft legislation which will be published for comment in the middle of the year.
- **4.5%** and **6.5%** increase in excise duties on tobacco and alcohol products.
- A new ***tax on vaping products*** of at least R2.90 per millilitre from 1 January 2023.
- Surprisingly there has been an inflationary increase to the value of the medical tax credits in 2022/2023 from **R332** per month to **R 347** for the first two beneficiaries, and from **R224** per month to **R 234** for the remaining beneficiaries. It is a welcome surprise that we are continuing to see inflationary increases in the medical tax credits because it was announcement in the 2018 Budget Review that the credit would be adjusted by less than inflation to help fund the rollout of national health insurance over the medium term. Is the NHI system more problematic than Government is saying?
- **Employment tax incentive**. To encourage businesses to employ young people, government proposes an ***increase of 50%*** in the value of the employment tax incentive, effective from ***1 March 2022***. The incentive will increase from a maximum of R1 000 to a maximum of R1 500 per month in the first 12 months, and from R500 to a maximum of R750 in the second 12 months of eligibility.

Whilst South Africa has rebounded to recent challenges better than expected, the country is in a deep debt hole that is consuming revenue that could be better spent elsewhere. Taxpayers may have seen some relief in terms of tax rate reductions, but they can rest assured that the ballooning oil price will have a negative impact on the economy as a whole. Taxpayers can expect significant petrol price increases at the pumps and also have to absorb the impact of such increases on the cost of food and other essential commodities. It is going to be a tough year but what else can the resilient South Africans do but to ride it out.

8) Conquering the skills gap with your current workforce

Author: Davina Pillay

Searching for new staff to fill the skills gap is often a major concern for organisations. We recommend and advise that companies look at retaining their current skilled staff as the first step. One way that companies can conquer employee attrition is by offering employees the opportunity to learn, grow, and have a positive impact in the organisation.

Companies that offer essential upskilling, training and career pathing should not only drive efficiency and retention of their current talent but also help to appeal to the best talent in the market.

To accomplish this, best practice suggests there are 3 things companies can do to develop a career succession strategy that will attract and preserve talent:

1. Encourage employees to own their careers - When employees take ownership of their careers, they feel a sense of purpose and belonging. Encourage them to explore their strengths and values and how they align with those of the organisation.
2. Expand the meaning of career development - Ensure that your organisation has a broad definition of career development beyond just promotions. Brainstorm ways employees can grow within a position and grow within a function.
3. Fast-track careers of underrepresented groups - Foster inclusiveness and develop professional growth by forming a mentorship programme. It is also imperative to provide mentors with the support they need to be aware of their role and the exact ways they can support their mentees.

If existing and prospective employees see a clear career path to learn, grow, and be connected to impactful and meaningful work, they should feel inspired, motivated and far more likely to stay at an organisation, avoid employee attrition and diminish the skills gap.

HRTorQue is able to assist organisation with all aspects of skills development including skills gaps audit and analysis, career path development, succession and experience planning.

For more information on any of these processes and how HRTorQue can assist with implementation in your business contact info@hrtorque.co.za.

9) Intermittent absenteeism versus block periods of sick leave

Author: Jonathan Aitken

Whilst employees are entitled to take 30/36 days' sick leave in a 3-year period, the BCE Act clearly discourages excessive intermittent absenteeism as outlined in 'Section 23. (1) 'Proof of incapacity'.

This section gives the employer every right to request a medical certificate if employees continuously absent themselves 'on more than two occasions during an eight-week period', and is contrary to the belief that 'an employer can only take action once the BCEA allocation has been exhausted'.

Intermittent absenteeism is often the result of an underlying problem (substance abuse, domestic, financial, depression etc…) and is the most disruptive to the employer.

In an effort to improve productivity, it is in employees' and employers' best interests to ascertain the underlying cause of the intermittent absenteeism through a reliable system, which assists in the monitoring and managing of employee incapacity.

When a reliable system is in place the employee can be assisted/managed in a way that leads to overall improvements within the company.

At HRTorQue we work with companies to utilise their sick leave monitoring and correction processes as critical management tools.

10) Managing incapacity – subjecting an employee to a medical examination

Author: Jonathan Aitken

The Incapacity section of the Labour Relations Act requires that an employer should investigate the extent of the ill health or injury if an employee is temporarily unable to work.

It also states that the cause of the incapacity is relevant should the employer decide to dismiss the employee. The Act suggests that in certain kinds of incapacity for example alcoholism and drug abuse, counselling and rehabilitation may be appropriate steps to consider.

The Employment Equity Act states that it is not unfair discrimination: -

- to distinguish, exclude, prefer any person on the basis of the inherent requirements of the job

Testing of an employee for any medical reason is prohibited unless: -

- it is justifiable to do so in the light of medical facts, employment conditions or the inherent requirements of the job.

From the above it is apparent that person/job specifications outlining the inherent requirements of the job are necessary when referring employees. This ensures objectivity of the medical investigation/assessment.

In many situations, the procedure in referring an employee for a medical investigation is often hampered by misunderstanding by the employee and his representative.

Employees tend to perceive this intervention to be a disciplinary measure and infringement of their rights.

It is therefore important for organisations to ensure that they have a clear policy in relation to the management of incapacity. This policy should include among other important factors the relevant legislative provisions and the stipulation that an employee may be required to undergo a medical assessment to confirm the duration and extent of the incapacity.

11) Proactive HR

Author: Jonathan Aitken

What do you mean when you talk about Proactive HR?

For many employers, HR is largely reactive. Responding to events within the organization as they arise – grievances, high levels of absenteeism, collective action, operational performance issues. By the time issues escalate to this level it requires significant management attention to resolve.

The concept of proactive HR looks to identify and deal with HR issues before they become problematic and use up senior management time. We do this in a number of ways:

1) We use a series of tools to identify "problem" areas before they escalate. This includes analysing data to identify employees who are disillusioned, not engaged or potential trouble-makers. We then together with local management, proactively manage these employees before bigger issues arise. In our experience HR ends up looking like fantastic through this process because it allows them to:
    a. Clearly show senior management where they are adding value;
    b. Impress local management with their ability to see into the organisation (and keep them on their toes); and
    c. Improve local management performance by identifying and coaching those local managers who were aware of an issue, but were not sufficiently skilled or proactive to manage their team themselves;
2) Through daily experience with employee arbitrations, we know that employers tend to win matters consistently when they have the right documentation in place, have gone through a proper process with employees and are fair in their dealings with employees. The second pillar of proactive HR is therefore to get the basics right. This can be done at reasonable cost by just following a few easy steps and in the long run results in significantly lower senior management involvement, time and cost.
3) The majority of collective employee disengagement, frustration and conflict stems from poor or no communication in the organisation. This is often a more difficult area to get the right balance. We use a number of tools to improve HR communication. This makes HR more visible to all and helps to identify bigger issues before they become problems.

If you would like to know more about proactive HR and how HRTorQue can help, please feel free to contact us at info@hrtorque.co.za.

12) Zimbabwe – Tax update

Source: www.crs.co.za

It is important that employers note the following:

Pension & Other Benefits Scheme (POBS) contributions

The National Social Security Authority (NSSA) has published the new maximum amount of monthly insurable earnings for March.

The new maximum amount of monthly insurable earnings in respect of which contributions are payable shall be 75% (seventy five per cent) of the previous month's total consumption poverty line (TCPL).

Where the TCPL figure is not available or published, the last published figure is applicable.

For March 2022, the insurable earning ceiling is ZWL$ 34,291.00.

For both employer and employee, the maximum deduction has changed from ZWL$ 1,433.61 (4.5% x 31,858.00) to ZWL$ 1,543.10 (4.5% x 34,291.00).

To view the insurable earnings banner on the NSSA website, follow the link.

Tax changes published in the Finance Act No 7 of 2021

Additional tax changes not published in the Finance Bill 2022 were published in the Finance Act No. 7 of 2021. The changes came into effect on 1 January 2022.

Rates of income tax

Please note: If the remuneration is earned in both currencies, the ZWL remuneration shall be converted to US$ using the exchange rate prevailing on the day the payroll was run and the US$ tax tables will apply. The tax tables are on the ZIMRA website.

Benefits

The provision of data and airtime by the employer to the employee for use at the home or outside work premises is a benefit which is taxable in the hands of the employee. The deemed benefit is pegged at 30% of the cost to the employer.

Deemed motoring benefits

The motoring benefits with effect from 1 January 2022:

Engine Capacity	ZWL Deemed value 2022	US$ Deemed value 2022
Up to 1500cc	81,000	625
Over 1500cc – 2000ccc	108,000	830
Over 2000cc – 3000cc	162,000	1,250
Over 3000cc	216,000	1,660

Pension deductions

The maximum allowable deduction for pension contributions has been increased to $390,000.00 or US$3,000.00 per annum.

Retrenchment package

With effect from 1 January 2021 to 31 December 2021:

- Where the package was received in ZWL, the exempt portion is the greater of ZWL$400,000.00 or one third of the package, up to a maximum of ZWL$2,000,000.00.
- Where the package was in foreign currency, the exempt portion is the greater of US$3, 200.00 or one third of the package, up to a maximum of US$15,100.00.

With effect from 1 January 2022 these amounts were reviewed as follows:

- Where the package is in ZWL, the exempt portion is the greater of ZWL$1,300,000.00 or one third of the package, up to a maximum of ZWL$4,875,000.00.
- Where the package is in foreign currency, the exempt portion is the greater of US$10,000.00 or one third of the package, up to a maximum of US$37,500.00.

Credits
With effect from 1 January 2022:

Credit	ZWL	US$
Elderly	117,000	900
Physically and Mentally	117,000	900
Blind	117,000	900

Payment to non-executive directors

- With effect from 1 January 2022 the definition of remuneration now excludes any amount given to non-executive directors.
- This means that if a non-executive director receives any benefits or allowances the amounts will now be subjected to withholding taxes at the rate of 20% which becomes a final tax.

Youth employment tax credit
With effect from 1 January 2020 Section 13A of the Finance Act (Chapter 23:04) provides for a Youth Employment Incentive (YEI) to qualifying taxpayers who employ youths in their companies who are below the age of 30 years.

The enactment of the Finance Act No. 7 of 2021 changed the tax credits as follows:

Provision	2021	2022 ZWL amount	2022 US$ amount
Section 13A Youth Employment Tax Initiative	The amount of the credit deductible in terms of subsection (2) shall be calculated at the rate of one thousand five hundred dollars per month for each additional employee, up to a maximum aggregate amount of one hundred and eighty thousand dollars in any year of assessment	6,500 per month and 292,500 maximum per annum	50 per month and 2,250 maximum per annum

To view the Finance Act No. 7 of 2021, follow the link

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