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Should you need any further information on these topics please contact us at info@hrtorque.co.za.

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1) Understanding verbal resignations: Legal implications and best practices

Author: Jenny Dowlath and Nicky Hardwick

When an employee exclaims, "I've had enough and I'm leaving!!" it prompts questions about whether you can accept a verbal resignation.

According to section 37(4)(a) of the Basic Conditions of Employment Act (BCEA), terminations must typically be in writing, except for cases involving illiterate employees. However the Labour Appeal Court has expanded the scope to allow employers to accept voluntary verbal resignations, provided there is a clear and unambiguous indication of the employee's intent.

It is however important for employers to pause and assess the situation before reacting to an employee's verbal resignation. Formal acknowledgment of the verbal resignation is necessary for it to be binding to both parties. This acknowledgment allows for a thorough evaluation of the circumstances surrounding the resignation.

Merely uttering the words "I quit" isn't sufficient to affect a resignation. The employee must follow up with additional actions to give substance to their words. This can include submitting a written notice or physically leaving the workplace without prior notice, providing tangible proof of their intention to resign.

Resignations must be clear and unambiguous, not dependent on external factors. Mere hearsay or office gossip about an employee's intention to resign should not be construed as a resignation.

Once a verbal resignation is clearly communicated, the employer cannot refuse it. However once the resignation has been accepted, withdrawing the resignation requires the employer's consent.

Employers should acknowledge verbal resignations and confirm the employee's intentions, thereby signalling to other staff members the seriousness with which such resignations are handled.

Understanding the legal framework and best practices surrounding verbal resignations is essential for both employers and employees. By adhering to proper procedures and ensuring clarity in communication, potential disputes and misunderstandings can be avoided, fostering a fair and respectful work environment for all parties involved.

[Contact](#) one of our team today should you have any HR-related questions.

2) Understanding annual leave entitlements for employees with less than four months service

Author: Nicky Hardwick

Employers often overlook a crucial aspect of annual leave entitlements that can potentially impact the bottom line – the fact that you are not required to pay out annual leave for employees who have worked for four months or less.

Hidden within chapter five, section 40 of the Basic Conditions of Employment Act, lies a vital provision that many employers are unaware of. It states that compensation upon termination for unused annual leave is not mandatory for employees who have been with your company for four months or less.

This lesser-known fact provides financial relief for employers by not having to pay out annual leave for employees whose services are terminated in their first four months.

For employees who surpass the four month mark, compensation for accrued annual leave becomes obligatory upon termination. However, this exemption for shorter-term employees presents a strategic opportunity for employers to optimise their financial resources.

It is essential to recognise that there are exceptions to this rule, particularly for employees on consecutive fixed-term contracts. If an employee accumulates over four months of total service due to consecutive contracts, they become eligible for annual leave compensation upon termination, regardless of individual contract durations.

Understanding and leveraging this aspect of annual leave entitlements can significantly enhance your financial stability as an employer. By aligning your payout policies with legal requirements and optimising resource allocation, you can bolster your financial health and improve operational efficiency.

This insight empowers employers to make informed decisions that benefit both their bottom line and their workforce.

For more information contact us on info@hrtorque.co.za.

3) COIDA FAQs

Author: Odessa Nutter

Editors Note: *On or before the 31st March 2024, employers are required to submit their Return of Earnings (ROE) submission to the Department of Labour. To make this easier for you, we have delved into the HR treasure trove of our past content to re-share this article. While time may have passed since its initial release, the insights it contains remain relevant today.*

The Compensation for Occupational Injuries and Diseases Act (COIDA) is a South African law that provides compensation for employees who are injured or contract an occupational disease while working. We receive many enquiries from our readers regarding COIDA, so for your convenience have put together a handy FAQ with some of our most popular questions.

1) Who is covered by COIDA?

COIDA covers all employees who are working in South Africa, including foreign workers and part-time employees such as domestic workers and part-time workers, who are injured or contract diseases while on the job. However, some categories of employees are excluded from the Act, such as members of the South African National Defense Force and certain volunteers.

2) What benefits do employees receive under COIDA?

Employees who are injured or contract a disease because of their work are entitled to medical treatment, rehabilitation and compensation for loss of income. In the case of a work-related death, the dependents of the deceased employee may be entitled to compensation for loss of support.

3) Who pays for the compensation under COIDA?

The compensation is paid by the employer, who is required by law to register with the Compensation Fund and to pay annual assessments based on their payroll. The Compensation Fund is a public entity that manages the funds collected from employers and administers the compensation payments.

4) What is the process for making a claim under COIDA?

Employees who are injured or contract diseases while on the job must report the incident to their employer within seven days. The employer must then report the incident to the Compensation Fund within 14 days. The employee can also submit a claim directly to the Compensation Fund if the employer fails to do so. The Compensation Fund will investigate the claim and determine whether compensation is payable.

5) How long does it take for a claim to be processed under COIDA?

The processing time for a claim varies depending on the complexity of the case and the availability of supporting documentation. Generally, the Compensation Fund aims to process claims within 120 days of receiving all the necessary information.

6) Can employees sue their employer for work-related injuries or diseases?

Under COIDA, employees are generally not allowed to sue their employer for work-related injuries or diseases. The Act provides a no-fault compensation system, which means that the employee is entitled to compensation regardless of who was at fault for the incident. However, there are some exceptions where the employee may be allowed to sue their employer, such as in cases of intentional harm or gross negligence.

7) What benefits does COIDA provide?

COIDA provides for medical expenses, temporary disability benefits, permanent disability benefits and death benefits. The amount of benefits paid depends on the severity of the injury or disease.

8) What types of injuries and diseases are covered by COIDA?

COIDA covers all injuries and diseases that are caused by or arise out of an employee's work. This includes physical injuries (such as broken bones caused by accidents or repetitive strain), as well as diseases caused by exposure to chemicals, radiation or infectious diseases.

9) What types of compensation are available under COIDA?

Compensation under COIDA includes medical expenses, disability benefits and death benefits. The amount of compensation depends on the severity of the injury or illness and the extent of the employee's disability.

10) Can I still claim compensation if the injury was my fault?

Yes, you can, however if the injury was caused by your own negligence or misconduct, the amount of compensation may be reduced.

11) Can I claim compensation if I was injured while commuting to or from work?

No, injuries sustained while commuting to or from work are not covered by COIDA. However, injuries sustained while traveling for work-related purposes are covered.

12) What should I do if my employer refuses to pay compensation under COIDA?

If your employer refuses to pay compensation under COIDA, you can file a complaint with the Compensation Commissioner. You may also seek legal advice and take legal action against your employer.

13) Is COIDA the only option for injured workers in South Africa?

No. Workers who are not covered by COIDA may be able to claim compensation through common law or other statutory schemes. It is recommended that you seek legal advice to explore your options.

14) Do I need a lawyer to make a claim under COIDA?

You do not need a lawyer to make a claim under COIDA, but it can be helpful to consult with one if your claim is complex or if you are having difficulty getting the benefits you are entitled to.

For all your COIDA assistance and queries [contact us today](#). Take a look at our COIDA fact sheet together with pricing [here](#).

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4) The role of AI in predicting and preventing health and safety incidents

Author: Delene Sheasby (www.worksafetysa.co.za)

Editor's note: Delene is a registered health and safety management consultant. Should you need assistance with your workplace safety compliance [chat to one of the team today](#).

Artificial intelligence (AI) has an amazing ability to examine thousands of datapoints and figure out patterns. This can help us predict and prevent potential health and safety problems or accidents before it is too late.

A significant way AI helps is through predictive analytics. Predictive analytics is like having a crystal ball for workplace safety and is a smart way of using data to foresee potential issues before they happen. Of course, a human can do the same, but we will take much longer. By looking at past data, AI observes trends and spots areas where accidents might occur, helping organisations take action as soon as possible. For example, in workplaces with large machinery, AI can analyse data to know when equipment needs fixing, so there is less chance of it breaking unexpectedly and causing problems down the line.

Another advantage of AI is real-time monitoring. This means it provides immediate awareness, thereby improving emergency response times, maintaining continuous vigilance, offering behavioural insights, acting as a deterrent, and enabling data-driven decision-making – all contributing to a safer and more secure workplace. By using sensors and cameras, AI keeps an eye on what is happening in the workplace all the time. If something unusual comes up, such as someone not following safety rules, AI can be used to send out an alert. This quick response helps to keep people safe, prevent accidents before they happen and minimise any potential harm.

AI can also be used to assess risks. It looks at potential risk factors such as the environment, how people work, and the condition of equipment. Then, it creates a profile of possible risks, helping companies make specific safety plans tailored to their unique situations. It is an essential tool for safety officers when preparing their risk assessments.

However, here's the key – AI works best when it teams up with people. While it is great at crunching numbers, humans are needed to bring in their experience and know-how. It is a bit like having a smart assistant – together people and AI are the ultimate dream team in making sure everyone stays safe.

Embracing AI isn't about replacing humans; rather, it is about staying ahead in the race for progress. While AI won't replace people, those who harness its full potential will inevitably outpace those who don't. It is not a matter of substitution but rather a matter of evolution. Individuals and organisations that integrate and leverage AI effectively will surpass those who lag behind in adopting this technology. The key lies not in AI replacing humans but in humans using AI to their advantage and, in doing so, surpassing those who resist its integration.

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5) Employment data sharing between SARS and the UIF

Author: David Beattie

It has been noted with interest that a joint implementation agreement on the sharing of employment data between SARS and the Unemployment Insurance Fund (UIF) has been drawn up.

According to the media statement, 98% of monthly UIF contributions are paid to SARS by employers via their payroll systems. These payroll systems provide detailed employer and employee data via the bi-annual tax certificate submission process. With SARS proposing to change the submission frequency to monthly, SARS will be able to extract employer and employee information and send it to the Unemployment Insurance Fund. This will reduce administration for the employer as the need to submit the monthly Declaration Files (EDEC) could fall away. The integrity of the information that is received from SARS is also likely to improve the information that the UIF has access to for benefit claims purposes.

It is also hoped that the Compensation Fund can be included in this collaboration project. There has been some collaboration between PAGSA and the Compensation Fund, most recently concerning the concept of 'COVID earnings'. The challenges in interpretation of the 'COVID earnings' concept could fall away if the term is replaced by the Fourth Schedule definition of 'remuneration'. This change is included in the COVID Amendment Act. This Act is yet to be signed into law, so an effective date is not known. It is hoped that this date will coincide nicely with the start of the next reporting year on the 1st March 2024.

We will keep you updated on the latest developments. In the meantime, should you require any assistance please reach out on info@hrtorque.co.za.

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6) 2024 National minimum wage increase

Author: Candice Zulu

There has been a recent development in labour regulations that may impact your operations. In the Gazette published on the 2nd February 2024, the Labour Minister announced an adjustment to the national minimum wage, which will come into effect on the 1st March 2024.

The new minimum wage is set at **R27.58** per ordinary hour worked, reflecting an 8.5% increase from the 2023 minimum wage of R25.42.

Here are the specific changes for different categories of workers:

- Farm workers: R27.58 per hour
- Domestic workers: R27.58 per hour
- Workers on an expanded public works programme: R15.16 per hour

It is essential to note that, according to the law, any unilateral alterations to hours of work or other conditions of employment in implementing the national minimum wage are considered unfair labour practices.

Furthermore, the national minimum wage covers only ordinary hours of work and excludes allowances (such as transport, tools, food or accommodation), payments in kind (board or lodging), tips, bonuses and gifts.

We urge all our clients to take note of these changes and make the necessary adjustments within your organisations.

For any additional information or clarification, please feel free to [contact our HR department](#), who will be more than willing to assist you.

View the Gazette here: [National Minimum Wage Increase 2024](#)

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7) Things to take note of this February

Author: Candice Zulu

1. Budget Speech: The latest Parliamentary Programme Framework for 2024 has been issued and confirms that the 2024 Budget Review will be presented on Wednesday the 21st February 2024.
2. Upcoming **tax year end** for our payroll clients in the following African tax authorities:
 - a. Lesotho - March
 - b. Malawi - March
3. Managing HR matters can sometimes feel like navigating a maze. That is why we have put together our **HR Go-to Guide**, a powerful resource designed to simplify your HR journey! Access our [HR Go-to Guide](#) now.
4. **Income tax number registrations:** We can assist you with the registration of your employees for income tax purposes, managing the process from start to finish. Our consultants will obtain the employee's personal information from your payroll administrator and complete the necessary applications. The turnaround time for this process is 24 hours and the cost per application is R150 plus VAT. A volume discount will be negotiated in cases where there are more than 20 applications at a time. Should you need assistance please contact Dave Beattie on 031 582 7410 or dave@hrtorque.co.za.
5. **New SARS USSD service:** The new USSD service makes it easy for taxpayers to communicate with SARS without having to own a smartphone or visit a SARS branch. All you need is a basic feature phone with a dial function and you will be able to use the code * 134 * 7277 # to interact with the organisation. After entering the code, taxpayers will be presented with four menu options:
 1. To check if they have a tax number
 2. To get their account balance
 3. To check if they need to submit a tax return
 4. To make an e-booking to visit a branch
6. HRTorQue hosts a variety of weekly, online, **HR-focused mini workshops**, covering various topics to assist and guide your managers to perform more optimally. View our [list of trainings available](#) or [email us](#) for more information.
7. For our latest recordings from our **Wednesday webinars** check out our [YouTube channel](#), filled with informative HR, payroll and legislation webinars. If you are not receiving our weekly invites you can subscribe [here](#).

[Contact us today](#) for all your HR, payroll, tax and accounting needs.

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