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

1. Employment Equity: Why Employers Can No Longer Afford to Get This Wrong

Author: Jonty Aitken

Employment Equity (EE) has become one of the more contentious compliance areas facing South African employers. In theory, the legislation aims to eliminate unfair discrimination and promote equitable representation of designated groups across all occupational levels.

In practice, many employers experience it differently: as a mechanism used by government to drive transformation targets with limited flexibility, backed by an audit process that is increasingly aggressive and, in a growing number of cases, inconsistent with what the legislation actually requires.

We are seeing a marked increase in Department of Employment and Labour inspections and compliance reviews. Concerningly, a number of these audits reflect a poor working knowledge of the Employment Equity Act itself, resulting in arbitrary findings of non-compliance that employers then have to spend time and money contesting. Whether or not one agrees with this trend, the practical reality for employers is the same: EE compliance now carries real, tangible risk, and that risk is no longer limited to fines.

The Risk Is Bigger Than Fines - Non-compliance with the Employment Equity Act can result in penalties of up to 10% of annual turnover. That alone should have every designated employer's attention. But the more immediate and, in many cases, more damaging risk is this:

- **In practice, an Employment Equity compliance certificate is required to do business.** Many organisations — particularly those tendering for government contracts or responding to RFQs from larger corporates — cannot even be considered without a valid EE compliance certificate. If your EE Plan, reporting, and consultation processes are not in order, obtaining that certificate becomes difficult, and in some cases, impossible. The consequence isn't just a fine; it's lost revenue and lost business opportunities. For many employers, this is now a bigger commercial threat than the compliance penalty itself.

Given this, EE can no longer be treated as an annual reporting exercise handled reactively in the weeks before the deadline. It needs to be managed properly, continuously, and defensibly — with documentation that will stand up to an audit, even one conducted inconsistently.

What Designated Employers Are Required to Do

For employers wanting a quick reference, the core compliance obligations under the Act are:

1. **Determine designated employer status** – generally, employers with 50+ employees or municipalities and organs of state.
2. **Consult with employees** – establish and consult through an Employment Equity Committee representative of the workforce.
3. **Conduct a workforce analysis** – review policies, practices, and workforce profile to identify barriers to equal opportunity and under-representation.
4. **Prepare an Employment Equity Plan** – with clear numerical goals, timeframes, and affirmative action measures, typically covering a 5 year period.
5. **Assign responsibility** – appoint a senior manager accountable for EE implementation.
6. **Submit annual EE reports** – via the online system, by the prescribed deadline (typically 15 January, or 1 October where reporting online).
7. **Monitor and report on progress** – track actual representation against numerical targets and report on this annually.
8. **Retain supporting records** – recruitment, promotion, training, and termination data, consultation minutes, and plan reviews, all of which must be readily available in the event of an audit.

Getting any one of these wrong — particularly documentation and record-keeping — is often what turns a routine audit into a finding of non-compliance.

How HR Torque Can Help

Given the stakes, we believe employers need more than annual compliance support — they need a proper system and expert oversight behind it. HR Torque offers both:

- **Expert guidance** to design a sound Employment Equity Plan tailored to your workforce and sector, and to manage the consultation process correctly from the outset.
- **Software to manage the full EE lifecycle** — from workforce analysis and target-setting through to ongoing tracking of actual representation against targets, so you know where you stand well before reporting season.
- **Audit-ready documentation support** — ensuring the records, minutes, and evidence regulators expect are in place and organised, reducing your exposure when an audit happens.

EE compliance done properly protects your business on two fronts: it reduces the risk of penalties, and it protects your ability to secure the compliance certificate your business may depend on to win work.

If you would like assistance reviewing your current EE Plan, preparing for your next submission, or getting audit-ready, contact our team at **info@hrtorque.co.za**.

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2. Certificate of Service vs a reference letter... do you know the difference?

Author: Candice Zulu

When an employee leaves your business, one of the final steps in the employment lifecycle is ensuring they receive the correct documentation. Two documents that are often confused are the Certificate of Service and a reference letter.

A Certificate of Service is a basic employment record that confirms the employee worked for your organisation. It typically includes the employee's name, their position held, the dates of employment, and a brief description of duties performed.

This document confirms employment but does not comment on the employee's performance or suitability for future employment.

A reference letter is different. Unlike a Certificate of Service, there is generally no legal obligation for an employer to provide one. It is issued at the employer's discretion and is intended to support an employee's future employment opportunities.

Understanding the distinction helps employers remain compliant while ensuring employees receive the appropriate documentation when they exit the business.

How HRTorQue can help

Managing employee exits is about more than collecting company property and processing the final payroll. It also involves ensuring the correct documentation is issued, legislative requirements are met, and the process is handled professionally from start to finish.

At **HRTorQue,** we support businesses through every stage of the employee lifecycle, from recruitment and onboarding to performance management, employee relations, payroll, and compliant employee exits. Whether you need assistance preparing termination documentation, conducting exit processes, or ensuring compliance with labour legislation, our experienced HR team is here to guide you every step of the way. Email us for more.

💡***HR tip:*** *A Certificate of Service confirms where someone worked, whereas a reference letter explains how they worked. One is a legal employment record; the other is a discretionary recommendation.*

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3. Mid-year and year-end work festivities: The steps to managing alcohol consumption

Author: **Pholisa Ngcai**

Many social committees in organisations have already begun planning and prepping for the most anticipated event on the corporate social calendar. These festivities are often a way employers give back to their employees, offering opportunities to network and celebrate achievements and milestones in a fun and relaxed, ‘out-of-the-office’ environment.

Among other things to indulge in – besides food, music, and a good time - are alcoholic beverages.

Alcohol remains a staple of workplace socialising and a default way to bond for many employees. It is a common and accepted practice during work functions, however things can quickly take an unwanted turn if indulgence is not managed responsibly. Employers have the responsibility to continuously foster an environment where employees can have a good time while maintaining their safety, professionalism, and dignity, not forgetting the organisation's image and reputation. It is essential for both parties to understand and maintain the balance between celebrating and accountability, as this predominantly determines the success of a work function.

Having a good time with fellow colleagues does not have to compromise an employee's wellbeing and their work relationships. It is possible to unwind and create memorable moments while still being professional – all it takes is setting very clear expectations and rules in line with the organisation's alcohol-use policy, and arranging alcohol-free alternatives for the non-drinking members of the team.

Here are eight effective strategies that employers can use to ensure better alcohol management and consumption during functions:

1. Emphasise the importance of employees carrying themselves professionally during social work functions – as they do on a normal working basis – and that it is their responsibility to ensure they consume alcohol with discretion.
2. Clearly state the consequences of inappropriate misconduct before and during these types of events.
3. Make it known that the employer will not be liable for any harm or damages which may be as a result of an employee's alcohol consumption.
4. Remind employees that the organisation is entitled to take disciplinary action against an employee for misconduct, whether on or off the premises, that impacts the employment relationship.
5. Issue each employee a drink token or tickets to limit alcohol consumption.
6. Ensure that plenty of water and non-alcoholic drinks are available.
7. Reiterate content on substance abuse and alcohol policies.
8. Last but not least, ensure that managers responsible clearly understand substance abuse and alcohol policies so that they know how to handle situations should things take a turn for the worse.

Work functions serve an important purpose – to allow colleagues to unwind outside of the routine work environment. Collective effort between employers and employees is the only way to make social work functions a success, ensuring a smooth transition back to the 'everyday' without any regrets.

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4. Why your health should be top of your priority list – and why every employee deserves access to health insurance

Author: Sibusiso Shangase

If someone stopped you today and asked: "What is the one thing you value most in life?", what would you say?

Family. Time. Freedom. Financial security. Travel. Peace of mind perhaps? But the truth of the matter is this: none of these are possible without your health.

Health is not just one value among many; it is the foundation that makes every other value achievable. And yet, for so many employees in South Africa, protecting that foundation is treated as a luxury rather than a necessity. Access to health care and appropriate health cover is imperative – and it should not depend on how much one earns.

Health insurance vs. medical aid

These two terms get used interchangeably but they are not the same thing. Understanding the difference matters.

Medical aid works on a member-funded model. You and your fellow members pool contributions into a scheme, and the scheme pays out for healthcare costs according to a set of rules, benefit limits, and often a managed care network. Medical aid tends to be comprehensive, but it is also expensive, and premiums usually increase as members get older or claim more.

Health insurance, on the other hand, pays out a fixed benefit when a defined event happens, for example, a cash payout for hospitalisation, a specific procedure, or a diagnosed condition. It is typically far more affordable, simpler to understand, and does not carry the same underwriting complexity as medical aid. For many employees, especially those who cannot afford full medical aid, health insurance is the realistic bridge between no cover at all, and proper protection.

In short: medical aid pays your healthcare provider directly for a wide range of services. Health insurance pays *you* a benefit when something specific happens so you can use it however you need to, for hospital bills, transport, lost income, or ongoing costs.

The real cost of doing nothing

Many employees without medical aid or health insurance are one emergency away from serious financial hardship. And when that emergency hits, the only fallback is a public healthcare system most people try to avoid if they possibly can, because of overcrowding, long waiting times, and limited resources.

There is no doubt that many public healthcare workers do incredible work under intense pressure and limited resources. But when an employee gets sick or their child needs urgent care, they deserve options. They deserve the dignity of choosing where and how they want to get treated, and not being forced into a system by circumstance because nobody gave them a better alternative.

The truth of the matter is that many HR managers and business leaders already have solid medical aid cover for themselves and their families, so employee health benefits can quietly slip down the priority list. It is not because they don't care, but often because they simply do not see it as urgent, especially when their own cover is sorted.

But that blind spot has a real cost. Employees earning the least are the ones who most need protection when a medical emergency arises, and they are usually the ones with no cover at all. They are left to either pay out of pocket, go into debt, or rely on public healthcare. Meanwhile, private, affordable health cover is readily available to them – they just have not been given the chance to access it.

"But we can't afford to increase our costs!"

This is the most common objection, and it is a fair one. No business wants to add expenses right now. But offering group health insurance does not have to mean a bigger bill for the company. There are ways to structure it that keep costs neutral for the employer, while still giving employees real protection. Here are some practical options:

- **Cost-to-company structuring:** The premium comes out of the employee's own cost-to-company package, meaning it is their choice, funded from their own remuneration, not an added company expense. Existing employees can opt in voluntarily; new hires can have it built into their offer from day one.

- **Built into salary review time:** Instead of a straight salary increase, employees are offered health insurance as part of (or instead of) that increase. Take-home pay stays the same, but employees walk away with real protection they did not have before.

Not every employee will want to trade a portion of a salary increase for cover – some will always prefer more cash in hand. That is understandable. But when employees actually understand what is at stake, what one hospital stay without cover could cost them for example, many will see the trade-off differently.

Why this matters for employees

For employees, this comes down to choice and protection.

- **Choice:** Employees deserve the option to decide for themselves whether health cover matters to them – not to have that decision made by omission because nobody offered it.
- **Protection:** A single unexpected illness or hospital stay should not be the difference between financial stability and years of debt.
- **Peace of mind:** Employees who know they are covered can focus on their work, their families, and their lives instead of carrying constant anxiety about "what if something happens."
- **Fairness:** Health cover should not be a benefit reserved for those who can already afford medical aid on their own. Every employee, regardless of income level, deserves a realistic path to protecting their health.

A question worth asking

So, going back to that first question...

Ask your team what they value most in life. You might be surprised by how many of them would jump at the chance to protect what matters most if only they were given the option.

Group health insurance is not about adding pressure to a business. It is about giving every employee, regardless of their income, a fair shot at the same peace of mind that management already typically enjoys. If you are interested in exploring an affordable, flexible group health insurance solution for your team, chat to us and we will find a structure that best suits your business and people.

HRTorQue Financial Services is a registered financial service provider – FSP number 52068

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5. Anonymous whistleblowing in business: The importance of a safe reporting channel

Author: David van den Bergh

Most workplace problems do not begin as crises.

Fraud starts with a small policy breach. Harassment often begins with behaviour that goes unchallenged. Corruption, theft, discrimination, and unethical conduct rarely appear overnight. The real question is whether your employees feel safe enough to speak up before those issues become expensive legal disputes, reputational damage, or regulatory investigations.

An anonymous whistleblowing system is no longer a "nice to have". It has become an essential part of responsible business management, good corporate governance, and compliance. It also sends a powerful message to employees, clients, and stakeholders that your organisation takes ethics seriously.

Why anonymous reporting matters

One of the biggest reasons employees stay silent is fear. Fear of retaliation. Fear of being labelled a troublemaker. Fear that nothing will happen even if they report misconduct.

An anonymous reporting channel removes many of those barriers. It gives employees, contractors, suppliers, and even members of the public a secure way to report concerns without exposing their identity. When organisations make reporting easy, they are far more likely to uncover issues while they are still manageable.

Instead of discovering problems through social media, labour disputes, or external investigations, businesses gain the opportunity to address concerns internally and fairly.

The compliance case for whistleblowing

South African businesses operate in an environment where ethical governance is under increasing scrutiny. The Protected Disclosures Act encourages employees to report unlawful or irregular conduct, while King IV places significant emphasis on ethical leadership, accountability, and effective governance. Many organisations pursuing good governance frameworks, ISO standards, or working with larger corporate supply chains are also expected to demonstrate appropriate reporting mechanisms.

Having an anonymous whistleblowing process helps businesses strengthen compliance by:

- Supporting ethical reporting practices
- Demonstrating commitment to good corporate governance
- Creating documented processes for handling reports
- Providing clear audit trails for investigations
- Reducing organisational risk

For many businesses, particularly those working with corporate clients or public sector contracts, these measures are becoming increasingly important during supplier assessments and governance reviews.

Your reputation is built on trust

A company's reputation is shaped by far more than marketing campaigns. Employees want to work for organisations they trust. Clients want to partner with ethical businesses. Investors and stakeholders increasingly look beyond financial performance and examine governance practices.

An accessible whistleblowing system signals that your organisation values transparency and accountability. It shows that concerns are welcomed rather than ignored. That kind of trust cannot be built overnight, but it can be strengthened every time employees know there is a safe place to raise concerns.

Why accessibility makes all the difference

Even the best policy has little value if nobody uses it. Many traditional whistleblowing systems require lengthy forms, complicated procedures, or phone calls during working hours. These barriers reduce reporting. A simpler approach encourages action.

More than an employee reporting tool

Workplace risks do not only come from inside your organisation. A comprehensive reporting channel allows multiple stakeholders to report concerns, including employees, contractors, suppliers, visitors, and members of the public. Reports should cover all issues including fraud, theft, harassment, bullying, corruption, safety concerns, policy breaches, and unethical conduct. This broader visibility helps organisations identify patterns and respond before problems escalate.

An affordable solution for every business

Many organisations assume whistleblowing platforms are expensive enterprise systems reserved for large corporations. This is no longer the case.

HRTorQue's **Anonymous Whistleblowing Platform** offers an affordable solution from just R750+VAT per month, making ethical reporting accessible to businesses of all sizes. Whether you prefer to manage reports internally or require an outsourced reporting solution, our platform provides a secure and practical way to strengthen your governance framework. It gives employees, suppliers, and the public a secure way to report workplace concerns through a simple QR code, with immediate notifications and secure case management to help your business respond quickly and responsibly. The result is a reporting channel that avoids complicated, lengthy processes – and one people are far more likely to use.

At HRTorQue, we can help you build a culture where people speak up, raising concerns before it becomes too late. Contact us today for more information.

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6. Did SARS tax a great big chunk of tax of your pension when you moved from the UK to South Africa? Good news – you may be able to get this back

Author: Jonty Aitken

A Case Study for South Africans Now Resident in the UK

For South Africans who have emigrated to the UK, one issue continues to catch even well-advised individuals off guard. Your pension or provident fund takes off tax from your pension before paying it to you and you naturally assume you cannot get this back.

The Scenario

A client of ours had relocated from South Africa to the UK. Some time after departure — once the applicable waiting period on their retirement fund had passed — a payment became due. The fund administrator applied to SARS for a tax directive, and SARS issued one that resulted in South African tax being deducted from the payment.

On the face of it, this looked like a routine, correctly processed transaction. It was not.

The Underlying Issue

South Africa and the UK are parties to a Double Taxation Agreement (DTA). Under the pensions article of that agreement, taxing rights over certain retirement fund income are allocated to the country in which the individual is tax resident at the time the income arises — not necessarily the country in which the fund is based or from which the payment is made.

For a South African who has genuinely relocated and is tax resident in the UK, this can mean that SARS was never entitled to tax the payment in the first place — regardless of what a tax directive says. A tax directive reflects what SARS was told and calculated at the time; it does not override the DTA, and it is not the final word on the correct tax outcome.

Where the Difficulty Lay

Resolving this was not straightforward, and two obstacles stood out:

- **SARS.** Engaging SARS to revisit an issued directive and process a refund based on DTA relief required sustained, technically grounded engagement over an extended period.
- **The fund administrator.** Fund administrators are often reluctant to apply for a replacement or corrected tax directive once one has already been issued and processed, even where the facts clearly support it.

The Outcome

Through a long-running and carefully managed process, we secured a substantial refund of the tax that SARS had deducted. We also ensured the payment was treated correctly on the UK side, so that our client did not pay tax twice on the same income — the payment was ultimately received tax-free in the UK, consistent with the DTA and local tax legislation.

Why This Matters Beyond This One Case

This is not a one-off technicality. Any South African who has relocated to the UK (and certain other countries) and has a South African retirement fund, annuity, or pension payment falling due — including where a waiting period applies — may be exposed to the same issue. Depending on residence status and the terms of the relevant DTA, tax may be payable only in the country of residence, not in South Africa, even though a directive has been issued suggesting otherwise.

With the right help and advice you could be faced with a financial boost by reclaiming this tax. But it does need the right advice, patience, the right documentation, and experience dealing with both SARS and fund administrators.

How We Can Help

We work with South African expatriates and their advisers to:

- Review the tax treatment of South African retirement fund payments in light of applicable DTAs
- Engage with SARS where an incorrect directive has resulted in over-taxation
- Support fund administrators through the process of correcting or reissuing directives where required
- Coordinate with UK tax advisers to ensure income is not taxed twice

If you, or a client, have South African retirement benefits and now live in the UK, it is worth having the position checked before — or after — a payment is made.

This article describes the general nature of an issue we have successfully resolved for a client. Every case depends on individual facts, residence history, and the specific fund rules involved. Please get in touch to discuss your circumstances.

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7. Build confident and compliant managers

Author: Candice Zulu

Managers, supervisors, and team leaders deal with people-related situations every day – but not everyone has had the opportunity to learn the practical skills needed to handle them confidently and consistently.

From managing sick leave and probation, to handling misconduct, poor performance, and workplace communication, having the right knowledge on hand can help managers make better decisions, manage employees fairly, and reduce the risk of unnecessary workplace disputes.

HRTorQue's mini virtual workshops are short, practical, and interactive sessions designed to give managers the tools and confidence they need to manage everyday employee matters effectively and compliantly.

September 2026 Training Schedule

- 8 September: Employment contracts made simple
- 15 September: Communication in the workplace
- 22 September: Probation periods
- 29 September: Understanding misconduct, incapacity, and poor performance

Whether you are a new manager or an experienced team leader, these focused sessions provide practical guidance that can be applied immediately in the workplace.

Book your spot here or email hra@hrtorque.co.za for more information.

8. This month's highlights

Author: Candice Zulu

1. Navigating the complexities of HR can be confusing, even for the experts. That is why we put together our **HR Managers' Pocket Guide,** a powerful resource designed to simplify your HR journey. **Find it here.**

2. **Income tax numbers:** 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 your employees' 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 R300 plus VAT per employee. 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 031 564 1155 or dave@hrtorque.co.za

3. For the latest recordings from our **Wednesday webinars** take a look at our YouTube channel, filled with informative HR, payroll, and legislation tips and tricks. If you are not receiving our weekly invites, please subscribe here.

Contact us today for all your HR, payroll, tax, and accounting needs.

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