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EMPLOYERS ORGANISATION



Top News

Unpacking the Basic Conditions of Employment Act ("BCEA", Act 75 of 1997) – Maternity Leave

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Unpacking the BCEA

The Basic Conditions of Employment Act ensures fair labor practices in South Africa, setting standards for work hours, leave, and wages. It promotes healthy workplace environments, protects employees' rights, and helps businesses maintain compliance, fostering a stable and productive workforce essential for economic growth. Each month we will unpack a section of the BCEA starting with **leave types**. The BCEA mandates several types of leave, including annual leave, sick leave, maternity leave, and family responsibility leave.

Maternity Leave Summary: Female employees are entitled to at least 4 months maternity leave. This leave is unpaid and claimed for via UIF.

Maternity leave can start 4 weeks prior to the due date and commences for 6 weeks after giving birth.

No employee on maternity leave may return to work during the maternity period unless she has a doctors letter stating she is fit for duty.

Companies have varied maternity leave policies and the 4 months period can be extended as a company policy.



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Social Media and the Workplace

Article by: Noeleen Briedenhann

Since the worldwide lockdown experience of 2020, many industries have moved to a full online presence or have incorporated some form of online platform into their business model. As a result, social media is now front and center in all walks of life. But this instant exchange of information via social media, also brings its own set of challenges to the workplace. Here are a few pointers for employers to be aware of:

1. Everywhere, forever

Any post on social media, whether in the employer or employee's personal or public capacity, is available for scrutiny by Mr. Joe Public at any time. Even once a post has been removed, there is no guarantee that it was not captured by a reader somewhere. It is important to remember that any post is as good as a statement on a billboard on the highway. Visible to all, and unforgettable. Be absolutely sure before you post, that are ready to defend your words or images at whichever forum, be it the CCMA or a court of law.

2. Protect yourself, protect your brand

The safest way to avoid a social media storm, is to be extremely circumspect when drafting a social media post. Consult the necessary laws (such as the Consumer protection law, Labour law, advertising standards and the POPI act to name a few) before you publish. Employers are encouraged to develop a sound social media strategy, a social media policy in place and should train all staff on the do's and don't's of social media. Be careful of misleading the public in your posts, especially if you make use of bloggers or influencers. Always ensure that the necessary disclosures are visible in a blog or influencer posts, to show the relationship they have with your company.

3. Pick your pack

Many companies use WhatsApp groups for quick dissemination of information to multiple parties, but beware of what is said on these groups, even if they are 'internal WhatsApp' groups. If one member shares malicious or offensive content with the group, every member is deemed to be complicit if they do not act against the sender. A simple screenshot on your cellphone showing that you have deleted the message or blocked the sender, will be insufficient when tested in court. You would need to have someone take a video of you as you delete the message/block the sender on your phone, as proof that you did act and do not associate with the offensive message or image. Ensure all staff are aware of the rules for participating in a WhatsApp group and take disciplinary action where necessary. Failing to act against employees responsible for sharing offensive content or messages could lead to a greater liability on the part of the Employer.

4. Can I dismiss an employee for a social media post?

Yes, given the right circumstances. An employee's behaviour can be linked to reputational damage to the company and that goes to the trust relationship between employer and employee. Whether or not an employee is present in the workplace, he is still an extension of the Company and an 'unofficial ambassador' for his Employer. Any employee who posts malicious or harmful messages/images on social media about their employer, runs the risk of disciplinary action and possible dismissal. Even when an employee simply shares a derogatory statement that could be linked back to his/her employer, this could also be grounds for disciplinary action against the employee. In *Sedick and Another v Krisray and Fredericks v Jo Barkett Fashions* the CCMA took the view that the employer was entitled to intercept and access 'wall posts' made by the employees who had 'open' Facebook pages and that other employees who were 'Facebook friends' could easily identify the applicants as working for the same employer, whom they had defamed with their open posts.

A word of caution: the privacy settings on social media are not a failsafe to limit distribution of a post. While the courts and CCMA have not ventured far into the realm of the employee's right privacy and freedom of expression versus misconduct via social media posts, the general understanding is that social media is a public domain.

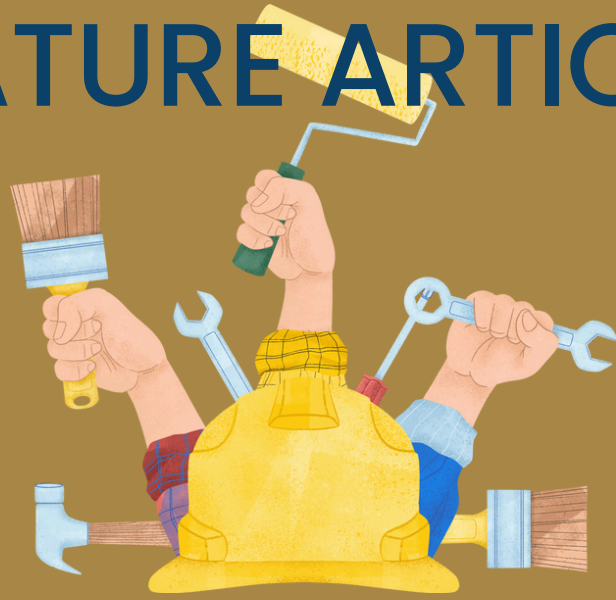
A social media post is a public statement and can't simply be erased.

CRACKDOWN:

Departments of Employment & Labour and Home Affairs

Out and about enforcing laws

FEATURE ARTICLE



From the desk of our General Secretary - Lodewyk Pienaar:

The newly appointed Ministers of Employment and Labour (“DoL”) and Home Affairs (“DoHA”) are putting their money where their mouth is. Labour inspections are on the increase!!!! DoL and DoHA together with SAPS are actively doing inspections that include checking the validity of passports and work permits of foreign nationals.

Company owners and management seems too relaxed thinking there is no risk if they have employed undocumented foreign nationals. **THINK AGAIN.** The inspections and fines are very real - R2 500 to R50 000 fine per arrested person AND your Plant Manager, Foreman also gets arrested with the foreigners with possible jail time.

Fake documents are available a dime a dozen and believe it or not the fake ones look more real than the actual permit, so beware, have the validity of foreign employees’ documents checked by DoHA.

Furthermore, it is well reported that many Government Employees that have been taking bribes have been dismissed - we encourage our members not to engage in this type of dealings.

As far as foreign nationals are concerned, there seems to be a misconception that Zimbabwean foreigners are completely exempted due to the ZEP Permits situation, however, they do still require valid passports. For all Mozambique's, other SADEC countries and the rest of the world, the EMPLOYER must apply for the work permit and NOT THE EMPLOYEES! This means the Employer will have the copy of the work permit and not the Employees.

Take note there are limited types of visas that employees can be granted work permits on. Some are - Business Visa, Work Visa, General Work Visa, Critical Skills Work Visa, Intra-Company Transfer Work Visa, Corporate Work Visa.

For the full list with all specifications visit

<https://www.dha.gov.za/index.php/immigration-services/types-of-visas>

Also watch - Cash for days:

https://www.google.com/search?q=cartblance+bosman+street+pretoria&rlz=1C1UKOV_enZ_A979ZA979&oq=cartblance+bosman+street&gs_lcrp=EgZj_aHJvbWUqBwgBECEYoAEyBggAEEUYOTIHCAEQIRigAdIB_CTE2NDI1ajBqN6gCALACAA&sourceid=chrome&ie=UTF-8#fpstate=ive&vld=cid:0cdf5b7d,vid:tAc4020yZ8k,st:0

