

Industrial Action report - Need for clear remuneration policy

The increase in industrial action over the past two years has heavily stressed the need for a well-defined and well-understood remuneration policy in the event of a strike.

According to the Department of Labour's Industrial Action report, workers involved in strike action during 2017 lost R251 million in wages compared to R161 million in 2016. This represents an increase of almost 56%.

The number of workers involved in strike action increase by almost 39% from 2016 to last year. According to the report strike action increased by 8% over the last two years and is the highest since the department started monitoring strike action.

The Labour Relations Act allows for the "No work, No pay Principle", however it is not as simple as the mere loss of wages for the time employees are not at work. SAPA executive Lavine Haripersad says a company's policy or practice note must be quite specific and detailed around the payment or suspension of benefits during the strike period.

The Policy

The impact on benefits such as medical aid cover, pension contributions and risk cover are seldom considered when the "No work, No pay Principle" is applied. In terms of the act the employer is not obliged to pay the employee during the strike period.

This also applies to the payment made by the employer on behalf of the employee for certain benefits.

"If these payments are suspended during the strike, it means employees are not covered when they at their most vulnerable. They could be injured, or someone might even die and their families are left exposed."

Other payroll considerations relate to the impact on leave and bonus payments when employees participate in industrial action. Haripersad says a bonus payment will have to be made pro rata to adjust for the days the employee was on strike.

It is also general practice that there will be no leave accrual during the time workers are on strike. According to the Department of Labour's 2017 Industrial Action report most strikes lasted around 11 working days, which translates into around half of the month's possible leave accrual.

The Agreement

If there is an agreement between the union and the employer that the payment of benefits will continue during a strike, it is important that the policy states clearly how the money will be recouped at a later stage from employees.

Statutory payments will take precedence – this includes Pay-As-You-Earn (PAYE) and contributions to the Unemployment Insurance Fund (UIF). During strike actions the Human Resource Director and Executive Management are focused on the strike and in trying to ensure that the business is not affected negatively.

There is then little time to consider payroll issues. If there is a clear and well-understood policy and agreement, it is one thing less to worry about.

The System

Most companies will have a system which can accommodate the calculations of pro-rata payroll and alignment to the policy to manage the impact of industrial action.

It is critical to keep accurate time records to know when the employee was absent from work to ensure that payroll is adjusted accordingly. Employers are legally required to keep these records during strike periods.

Another issue is when the strike continues from one tax year into the next and the adjustment of payroll. In some instances, it may be necessary to go back to the previous tax year and adjust payroll to ensure that the tax records reflect correctly, notes Haripersad.

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