

ISSUE

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## UNDERSTANDING BONUSES AND SALARY INCREASES: SOUTH AFRICAN LEGAL PERSPECTIVE

I hope this newsletter finds you well as we approach the end of the year, a time often associated with performance reviews, bonuses, and salary increases. In this edition, I aim to shed light on the legal considerations surrounding bonuses and increases in the South African workplace.

### 1. BONUSES: ARE THEY A RIGHT OR A DISCRETIONARY REWARD?

Under South African labour law, the entitlement to a bonus largely depends on the employment contract, company policy, or past practices. Here's what you need to know:

- **Contractual Bonuses:** If your employment contract explicitly states that you are entitled to a bonus, it becomes a binding obligation on the employer. Failure to pay such a bonus could constitute a breach of contract.
- **Discretionary Bonuses:** When bonuses are discretionary, the employer has the latitude to decide whether to award them, taking into account business performance, employee contribution, or other relevant factors. However, employers must ensure that discretion is applied fairly and consistently to avoid claims of unfair labour practices.
- **Customary Bonuses:** In cases where bonuses have been consistently paid over the years, employees may develop a reasonable expectation of receiving them. Withholding such bonuses without a valid reason could be challenged, especially if it contravenes established practices.

## 2. SALARY INCREASES: OBLIGATIONS AND PRACTICES

Salary increases are another key aspect of employee-employer relations. Here's the legal position:

- **Contractual Increases:** Some employment agreements may specify annual or periodic salary increases tied to performance reviews, inflation rates, or other metrics. Employers must honor such provisions to avoid contractual disputes.
- **Discretionary Increases:** Similar to bonuses, discretionary salary increases should be implemented equitably. Employers must avoid arbitrary or discriminatory practices in deciding who qualifies for an increase.
- **Bargained Increases:** In unionised environments, salary increases are often negotiated as part of collective bargaining agreements. Both parties are legally bound by the terms of these agreements.

## 3. KEY LEGAL CONSIDERATIONS FOR EMPLOYERS

Employers should be mindful of the following to remain compliant with South African labour laws:

- **Unfair Labour Practices:** An employee can challenge decisions regarding bonuses or increases if they believe these were applied unfairly or discriminatorily.
- **Clear Communication:** Ensure that the terms regarding bonuses and salary increases are clearly outlined in employment contracts and company policies. Transparency helps to manage expectations and reduce disputes.
- **Consistency and Fairness:** Apply policies and practices consistently across the workforce to mitigate risks of grievances or legal challenges.

#### 4. FOR EMPLOYEES: KNOWING YOUR RIGHTS

Employees are encouraged to:

- Review their employment contracts and company policies regarding bonuses and salary increases.
- Raise concerns or seek clarity from their employer if there is ambiguity.
- Seek advice or assistance if they believe their rights have been unfairly infringed.

#### FINAL THOUGHTS

Bonuses and salary increases can be a source of motivation and reward, but they can also lead to disputes if not handled properly. Both employers and employees benefit from clarity, fairness, and adherence to legal standards.

If you have any questions about the legal implications of bonuses and salary increases or need assistance in navigating related disputes, please don't hesitate to reach out.

Warm regards,

Regards

A handwritten signature in black ink that reads "Judy Ward". The signature is written in a cursive, flowing style. The first name "Judy" is written in a larger, more prominent script, and the last name "Ward" is written in a slightly smaller, more compact script. The signature is contained within a white rectangular box.

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