

Labour law compliance in South Africa is not a choice; it is a basic protection to ensure a business is safeguarded from any potential penalties, reputational harm, disruptions, and or costly legal battles. At Jacobs & Potgieter Incorporated, we believe that labour law compliance should not be viewed as a daunting task, but a systematic, manageable and strategic approach.



## SECTION A: CONDITIONS OF EMPLOYMENT (BCEA Compliance Framework)

The foundation of any compliance is the establishment of proper employment structures.

### Written Contracts of Employment

Legal Requirement: Section 29 of the BCEA

Every employee is entitled to the following:

- Information regarding the employer
- Job title and job scope
- Remuneration and payment intervals
- Working hours
- Leave accrual
- Notice periods
- Reference to the Disciplinary Code

Risk of non-compliance:

- Automatic negative finding at the CCMA
- Difficulty in defending an unfair dismissal claim
- Potential increase in compensation amounts

## Job Descriptions

While it is not specifically required by law, it is vital for:

- Performance Management
- Assessment of Misconduct
- Clarity of Operation
- Retrenchment/Restructuring

Job Descriptions should clearly indicate:

- Essential Responsibilities
- Lines of Reporting
- KPIs
- Competencies Required

## Disciplinary Code & Procedure

Legal Basis: Schedule 8 of the LRA (Code of Good Practice: Dismissal)

Employers are required to establish:

- A written disciplinary code
- A fair hearing procedure
- Progressive discipline guidelines
- A disciplinary sanction framework

Note: The absence of these will make dismissals deemed unfair, even if substantively fair.

## Staff Handbook / Policy File

Some vital policies that ought to be included:

- Leave Policy
- Overtime Policy
- Disciplinary Policy
- Grievance Procedure
- Harassment Policy
- POPIA & Data Protection Policy
- Remote Working Policy (where applicable)
- Substance Abuse Policy
- Social Media Policy

## Working Time and Record Keeping

The employers' responsibilities include:

- Keeping attendance records or issuing timesheets
- Keeping records of wages for a period of 3 years
- Issuing compliant payslip information

The information on the payslip should include:

- Employer information
- Employee information
- Gross earnings
- Deductions
- Employee net earnings
- Period of work

## UIF Registration

This is mandatory.

The employers' responsibilities include:

- Registering with UIF
- Withholding 1% from the employee's earnings
- Paying 1% from the employer's earnings
- Issuing monthly declarations

## Compensation Fund (COIDA) Registration

This is mandatory for all employers who employ staff.

The employers' responsibilities include:

- Registering with the Compensation Fund
- Issuing the Return of Earnings annually
- Paying assessments annually
- Notifying the Compensation Fund within 7 days of an injury
- The employer is liable for failing to register

## Induction Procedures

It is recommended that the employers' responsibilities include:

- Health and safety orientation
- Policy acknowledgment
- Explanation of contract
- Explanation of role

This helps to prevent future disputes due to lack of knowledge. Ensure that confirmation is recorded



## SECTION B: DOCUMENT INSPECTION REQUIREMENTS (Statutory Display & Governance Compliance)

Labour inspectors can request immediate access to some documents. It is recommended that the following be easily accessible:

- Copy of the Basic Conditions of Employment Act (BCEA)
- Copy of the Occupational Health and Safety Act (OHS Act)
- Copy of the Employment Equity Act
- Summary of employee rights
- Unemployment Insurance Fund (UIF) documents
- Compensation for Occupational Injuries and Diseases Act (COIDA) registration documents

### Employment Equity Compliance (where applicable)

Designated employers are required to:

- Submit Employment Equity Act (EEA2) reports annually
- Develop an Employment Equity Plan
- Undertake a workforce analysis
- Consult with employees

Non-compliance can incur hefty fines.



## SECTION C: OCCUPATIONAL HEALTH AND SAFETY (OHS Act Compliance)

Every employer has a legal responsibility to ensure a safe working environment.

### Health and Safety Representatives

- a) Required when 20 or more employees are employed
- b) Must: be formally appointed, be trained, conduct inspections, report.

### Health and Safety Committees

- a) Required when 100 or more employees are employed.

### First Aid and Emergency Preparedness

- a) Employers must: ensure a trained first aid provider, emergency exits are clearly marked, fire extinguishers are serviced annually, first aid boxes are adequately stocked.

### Physical Premises Compliance

- Electrical wiring secure and compliant
- Circuit breakers clearly labelled
- Floors clear of hazards
- Adequate ventilation
- Clean sanitary facilities
- Personal Protective Equipment (PPE) available when required.

- b) Non-compliance may lead to closure notices being issued by the Department of Labour.



## SECTION D: FAIR LABOUR PRACTICES (LRA & CCMA Risk Mitigation)

### Managing Misconduct

The employer is expected to:

- Carry out an investigation
- Provide written notice to the employee
- Provide employee representation
- Keep records of hearing results

### Performance Management

Employees have the right to:

- Be informed of expected performance
- Receive assistance and training
- Get an opportunity to correct the behavior
- Immediate dismissal for poor work is illegal

### Retrenchments

Section 189 of the Labor Relations Act (LRA) expects the employer to:

- Carry out a consultation procedure
- Use fair selection practices
- Explore all options before dismissing
- Correctly calculate severance pay



## SECTION E: DATA PROTECTION & EMPLOYEE PRIVACY (POPIA Compliance)

Employers must:

- Safeguard employee personal information
- Restrict access to authorised personnel
- Safeguard payroll information
- Obtain consent where necessary
- Appoint an Information Officer

Please note that employee data breaches attract severe penalties.



## SECTION F: RISK ASSESSMENT SUMMARY

If you do not have the below in place, your business is potentially at risk:

- No written contracts
- No Disciplinary Code
- Not registered with UIF/COIDA
- No Safety Representative
- Not compliant with payslip requirements
- No Employment Equity Plan (if applicable)

Immediate action is recommended.



## SECTION G: HOW JACOBS & POTGIETER CAN ASSIST

We offer:

- Contract drafting
- Contract review
- Disciplinary code drafting
- Disciplinary code review
- Compilation of policy handbook
- OHS compliance structuring
- Employment equity plan drafting
- Retrenchment advisory
- CCMA representation
- Workplace investigation assistance

Our service is preventative, strategic, and protective. We do not merely resolve disputes. We structure your business to prevent disputes.

Compliance, however, goes beyond the mere avoidance of penalties. It is a means of protecting your business, your staff, and your stability. A compliant workplace is a strong workplace. Should you wish to undertake a thorough compliance audit, we are ready to assist in a risk assessment and a plan of implementation.

### Disclaimer

This guide is provided for general informational purposes only and does not constitute legal advice. While every effort has been made to ensure the accuracy of the information contained in this guide, the content is necessarily general in nature and may not apply to specific circumstances. Businesses should obtain professional legal advice before acting on any information contained in this guide. Jacobs & Potgieter Incorporated accepts no liability for any loss or damage arising from reliance on this guide without obtaining appropriate legal advice.