

Potholes and prosperity in store for employment law



By [Tracy van der Colff](#)

24 Jan 2024

Last year was undoubtedly a challenging one for employers and employees. This article will explore the road ahead in 2024 and some of the challenges and opportunities that employers may face.



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New laws

In 2023, some key legal updates were introduced that will impact employers. These updates will likely come into operation this year:

- Local payroll and tax obligations for foreign employers who employ South African employees.
 - The 2023 Draft Tax Administration Laws Amendment Bill provides that foreign employers that have a permanent establishment in South Africa and pay remuneration to local employees may be subject to local payroll and tax obligations.
- The Judicial Matters Amendment Bill B7-2023 includes a proposed amendment to the Prevention and Combating of Corrupt Activities Act 2004.
 - The Bill proposes the creation of a new offence - the failure to prevent corrupt activities. The draft amendment provides that an entity (private or state-owned) is guilty of an offence if a person associated with that entity (which may include employees and contractors) gives or agrees, or offers to give, any gratification to another person with the intention to obtain or retain business or an advantage for that entity.
 - It is critical that companies implement adequate procedures to prevent corrupt activities, as pleading ignorance

will not absolve an entity from liability.

- The Companies Amendment Bill B27-2023 contains proposed amendments to achieve better disclosure of senior executive remuneration and the reasonableness of that remuneration. The draft bill currently provides that a public company or state-owned company must prepare and present the remuneration policy for directors and prescribed officers for approval by ordinary resolution at the annual general meeting.
- The Employment Equity Amendment Act ([read more here](#)) will likely become operational in 2024.



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Themes and trends

Quiet quitters or bad managers?

Harvard Business Review (HBR) describes “quiet quitting” as a new name for an old behaviour. Whilst the concept of an employee doing the bare minimum to get by at work without getting fired is not new, the behaviour coined as “quiet quitting” has recently become (in)famous.

A [study](#) conducted by HBR states that quiet quitting may not always be because of lazy or unmotivated workers but rather bad managers.

Employers should be careful to differentiate between quiet quitting that results from poor hiring decisions or performance issues, versus well-performing employees who become disengaged over time. The latter may be an indication of a more serious underlying issue.

Employers should employ robust hiring practices to ensure that only the very best candidates land the job, both from a character and skill perspective. Where a bad apple slips through, poor performance or attitude should be dealt with swiftly, as soon as early warning signs appear.

However, where a company once enjoyed the services of a bright, motivated and hard-working employee who now appears to be quiet quitting, it is imperative to dig a little deeper.

Companies should not tolerate bosses who create a poor culture, no matter what they bring to the table. Turning a blind eye for the sake of a high-performing individual may cost the employer dearly down the line from a reputational and employee turnover perspective. Employers should set and enforce clear workplace rules and policies, and apply them consistently

from the top down.



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AI set to cause disruption

The [2023 edX AI Survey](#) surveyed 1,600 non-executive and executive employees to better understand the impact of AI on the world of work. According to the report, the executives' estimates are that 49% of the skills that exist in their workforce won't be relevant in 2025, and 47% of their workforce is unprepared for the future of work.

Everyone surveyed agrees that AI is important, but companies are finding it difficult to adapt. Non-executive employees are keen to learn AI skills but feel that their desire to upskill is not supported by their employer. To attract and retain talent, employers are encouraged to focus on upskilling their workforce; failure to do so may result in a struggle to succeed in an AI-driven future.

The survey also examined how AI will impact entry-level employees, given that these positions may potentially be affected more than other job categories. The executives surveyed estimated that within the next five years, their organisation will eliminate over 50% of entry-level roles because of AI.

Diversity, equity, and inclusion (DEI)

DEI remains critically important for businesses as they strive to attract and retain top talent and create a more inclusive and equitable workplace. In 2024, businesses are expected to continue prioritising DEI initiatives, focusing on addressing unconscious bias, promoting equal opportunities and fostering a culture of belonging.



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Remote hiring and international expansion

Technological advancements have made it easier than ever to hire employees remotely, expanding businesses' access to a global talent pool. However, businesses must be aware of legal and regulatory issues when hiring remotely, such as company law, tax, immigration, employment and data privacy regulations. In 2024, businesses are expected to increasingly engage in remote hiring, necessitating a thorough understanding of the legal and regulatory landscape in different jurisdictions.

Flexible work

Covid-19 accelerated the adoption of flexible work arrangements, such as remote work and hybrid work models. These arrangements offer numerous benefits, including improved work-life balance, increased productivity and a broader talent pool. This year, flexible work arrangements are expected to become even more prevalent, driven by employee demand and technological advancements that facilitate remote collaboration. Businesses should proactively implement policies and procedures to manage flexible work arrangements effectively, addressing issues such as cybersecurity, data privacy and performance evaluation.

Gig economy

The gig economy is expanding rapidly, creating new opportunities for individuals to work independently and for businesses to access flexible labour. However, this also raises unique employment law challenges, such as classification of workers, pay equity and access to benefits. Businesses should stay informed about evolving regulations and legal precedents regarding the gig economy to ensure compliance and protect their interests.

In summary, the journey through 2024 and beyond may be dotted with a few potholes. Employers armed with a strategy to manage or fix those potholes or find alternative routes are on the road to a prosperous year.

ABOUT TRACY VAN DER COLFF

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