COMPLIANCE GUIDE

Employment compliance, *end to end.*

Every registration, filing and record required to employ someone in South Africa, when each falls due, what happens when one is missed, and how to tell whether your current arrangement is exposed.

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Jurisdiction
South Africa

For
International employers and finance leads

START HERE

Compliance is a calendar, not a decision

Employing someone in South Africa is not expensive by international standards. The statutory employer cost above gross salary is modest. What it is, is continuous. Registrations have to exist before the first payment, filings fall due every month and at several points each year, and records have to be retained for years after someone leaves.

Most compliance failures international employers encounter here are not decisions taken badly. They are obligations nobody knew existed, discovered when a Letter of Good Standing is requested, when an employee queries a payslip, or when an engagement ends and the other party takes advice.

This guide covers three things: whether your current arrangement is already exposed, what compliant employment actually requires, and what enforcement looks like when it goes wrong.

7th	2	5 years
Of every month, the deadline for the EMP201 declaration and payment	Reconciliation windows each year, in addition to monthly filings	Minimum retention for tax records, with employment records held separately

The question to answer first

Before looking at the calendar, establish whether the people doing your work in South Africa are correctly classified. If someone who functions as an employee is being paid as a contractor, no amount of diligent filing helps, because the wrong obligations are being met.

This is the most common position we encounter. An international company hires a South African, pays against monthly invoices, and treats the arrangement as a supplier relationship. It is quick, it feels low risk, and in many cases it is neither.

The label on the agreement decides nothing

In South Africa, whether someone is an employee is determined by the substance of the relationship, not by what the parties called it. An agreement headed Independent Contractor Agreement, signed willingly, with monthly invoices and tax invoices issued, can still be found to be employment. Two separate authorities test this, on different criteria, with different consequences.

EXPOSURE, TEST ONE

The labour law presumption

Section 200A of the Labour Relations Act, mirrored in section 83A of the BCEA, creates a rebuttable presumption of employment. If **any one** of seven factors is present, the person is presumed to be an employee and the burden shifts to the business to prove otherwise. The presumption applies regardless of the form of the contract, and applies to people earning below the earnings threshold, which is R269,600.90 per year from 1 May 2026.

One factor is enough. Not a majority.

FACTOR	WHAT IT LOOKS LIKE IN PRACTICE
Control over the manner of work	You direct how the work is done rather than specifying an outcome and leaving the method to them.
Control over hours	Set start and finish times, required attendance at daily stand-ups, expected availability during your business hours.
Forming part of the organisation	Company email address, listed on the team page, included in the org chart, attends staff meetings, has a manager.
Forty hours a month	An average of at least 40 hours per month over the preceding three months. This is a low bar, roughly ten hours a week.
Economic dependence	The person relies on your payments for their livelihood rather than trading with a portfolio of clients.
Tools of trade provided	You supply the laptop, the phone, the software licences or the workspace.
Single client	They work only for you.

Above the threshold the statutory presumption does not apply, but that is not a safe harbour. Courts apply the dominant impression test, looking at the totality of the relationship. The Labour Appeal Court has treated three considerations as primary: the right of supervision and control, whether the person forms an integral part of the organisation, and the extent of economic dependence.

Reform would widen this further

The Labour Law Amendment Bill published on 26 February 2026 proposes defining an employee as a person performing work or providing services for another, who is not conducting an independent trade, profession or business in which the recipient is a client or customer. That formulation would capture a considerable number of arrangements currently structured as contracting. The Bill is not law and its content may change, but it indicates the direction of travel.

EXPOSURE, TEST TWO

The SARS position

The Fourth Schedule to the Income Tax Act requires three elements before employees' tax arises: an employer, paying remuneration, to an employee. Amounts paid to a person genuinely carrying on a trade independently are excluded from remuneration. Whether that exclusion applies is the whole question, and SARS draws no distinction based on how much the person earns.

TEST	EFFECT
Premises and control	A person is deemed not to be carrying on a trade independently where services are rendered mainly at the client's premises **and** the person is subject to the client's control or supervision as to the manner of their duties or their hours of work. Both limbs are required.
The three employees exclusion	The deeming provision does not apply where the person employs three or more full-time employees throughout the year of assessment who are engaged in the business, excluding connected persons and those holding an interest in it.
Common law enquiry	Where the statutory tests do not settle the position, SARS applies the common law, examining control, integration into the organisation, and who bears the risk of the work. Interpretation Note 17 sets out the approach and is publicly available.

Interposing the person's own company, close corporation or trust does not resolve this. The personal service provider rules exist for that structure, and where they apply, payments can be subject to employees' tax at a prescribed rate with the entity's deductions severely restricted.

What misclassification costs

HEAD OF EXPOSURE	WHAT FOLLOWS
Employees' tax	The business becomes liable for the PAYE it should have withheld across the period, whether or not the individual declared and paid their own tax. Penalties and interest are charged in addition.
UIF, SDL and COIDA	Arrear contributions across the period, with back-registration and penalties possible.
Unfair dismissal	Ending the engagement becomes a dismissal requiring a fair reason and a fair procedure, with CCMA jurisdiction. Compensation is capped at 12 months' remuneration, and 24 months where the dismissal is automatically unfair.
BCEA entitlements	Retrospective annual leave, sick leave, notice pay, overtime where applicable, and severance where the ending is for operational reasons.

THE REQUIREMENTS

Registrations that must exist before the first payment

These attach to the legal employer. They cannot be met by a foreign entity without a South African presence, which is the structural reason an international company either incorporates locally or employs through a local partner.

01

PAYE with SARS

Required to withhold employees' tax. Registered on the EMP101 form, with SARS issuing an EMP103 notice of registration. Declared monthly on the EMP201.

02

UIF

Required where an employee works 24 hours or more per month. Contributions of 1% from the employee and 1% from the employer, capped at remuneration of R17,712 per month, so a maximum of R177.12 from each side. Registered with SARS where the employer is already registered for PAYE, and with the UIF Commissioner.

03

Skills Development Levy

Required where total remuneration will exceed R500,000 over the next twelve months. One percent of leviable payroll, employer only. The employer must nominate the SETA relevant to its core business on registration.

04

COIDA with the Compensation Fund

Registration, an annual Return of Earnings, and an assessment charged per R100 of earnings at a rate set by industry risk. Produces the Letter of Good Standing that clients, landlords and tender processes commonly request.

05

Employment Equity, if the team reaches 50

Since 1 January 2025 the definition of designated employer turns on headcount alone. Below 50 employees there is no EE Plan or annual report requirement, whatever the turnover. At 50 the full regime applies, including alignment with the five-year sectoral numerical targets in force since 15 April 2025.

Written particulars are a registration of a different kind

Section 29 of the BCEA requires written particulars of employment covering sixteen specified items, supplied when the employee starts. A contract drafted in another jurisdiction almost always omits several of them, most often the description of any council or sectoral determination covering the business, and any prior employment counting towards the employee's period of service.

What falls due, and when

Dates below reflect the position for the 2026 and 2026/2027 cycles. Several move year to year, and the Compensation Fund in particular has shifted its deadline more than once. Confirm current dates before relying on them.

Every month

FILING	DUE	DETAIL
EMP201	7th of the following month	PAYE, UIF, SDL and any Employment Tax Incentive, declared and paid together. Where the 7th falls on a weekend or public holiday, the deadline moves to the last business day before it. Declaration and payment must both reach SARS by the deadline.
UIF declaration	7th of the month	Employee status, salary and hours submitted to the Department of Employment and Labour through uFiling or a payroll interface. Separate from the contribution payment. A UI-19 is also required whenever an employee leaves, for any reason.

Twice a year

FILING	WINDOW	COVERS
Interim EMP501	Opens around 21 September, closes 31 October	Reconciliation of the six months from 1 March to 31 August.
Annual EMP501	1 April to 31 May	Reconciliation of the full tax year to the end of February, with IRP5 and IT3(a) certificates issued to employees.

Annually

FILING	DUE
COIDA Return of Earnings	Form W.As.8, filed through the ROE Online portal. The deadline has moved between 31 March and mid-year in recent cycles, so confirm the current date with the Compensation Fund.
Letter of Good Standing	Renewed once the Return of Earnings is filed and the assessment settled.
Workplace Skills Plan and Annual Training Report	30 April, to the relevant SETA. Optional in the sense that it is not a penalty if skipped, but it is how up to 20% of SDL paid is recovered as a mandatory grant.
Employment Equity reports, designated employers only	The reporting system opens 1 September. Manual submissions close at the start of October and online submissions in mid-January. EEA2 and EEA4 are filed together.
Rate changes from 1 March	New tax tables, and any change to the national minimum wage, applied from the start of the tax year. The earnings threshold changes separately, most recently on 1 May.

THE REQUIREMENTS

Records and retention

Retention periods run from different starting points under different Acts, and the longest applicable period governs in practice.

RECORD	RETAIN FOR
Written particulars of employment	The duration of employment and three years after it ends.
Time worked and remuneration paid	Three years from the date of the last entry, under section 31 of the BCEA.
Tax records	Five years, under the Tax Administration Act.
Disciplinary and performance records	No fixed statutory period. Retain for as long as they may be needed to defend a dispute, bearing in mind referral windows and the possibility of condonation.
Personal information generally	POPIA requires that records not be kept longer than necessary for the purpose, unless retention is required by law. The statutory retention periods above are that lawful basis, so a retention schedule should distinguish between them.

What enforcement looks like

FAILURE	CONSEQUENCE
Late or unpaid EMP201	A penalty of 10% of the unpaid PAYE, UIF and SDL, plus interest at the prescribed rate.
Late EMP501 reconciliation	A penalty of 1% per month of the annual PAYE liability, escalating to a cap of 10%. Employees may also be blocked from accessing pre-populated returns, which turns a filing failure into a staff relations problem.
Incomplete EMP501 data	SARS no longer accepts submissions missing valid income tax reference numbers for any employee. Collecting tax numbers at onboarding rather than at reconciliation avoids a scramble.
Failure to register for UIF	Back-registration with accumulated arrears and possible penalties, calculated from the date employment began.
Employment Equity non-compliance	Fines set out in the Act, calculated by reference to a monetary figure or a percentage of annual turnover, whichever is greater, and escalating for repeat contraventions. A compliance certificate is also required to do business with the State.
Unfair dismissal	Reinstatement, which may be retrospective and carry back pay, or compensation capped at 12 months' remuneration and 24 months where the dismissal is automatically unfair.

SELF-AUDIT

Fourteen questions to run against your current arrangement

Answer about how things actually operate, not how the paperwork describes them. Anything you cannot answer confidently is worth raising with an adviser before it becomes a query from SARS or a referral to the CCMA.

- [ ] **Classification.** Would any of the seven section 200A factors apply to the people doing our work in South Africa
- [ ] **Threshold.** Do we know where each person sits relative to R269,600.90, and have we applied the correct working time rules on each side of it
- [ ] **Contracts.** Do our written particulars cover all sixteen items required by section 29
- [ ] **Registrations.** Are PAYE, UIF, SDL and COIDA all registered, current and in the name of the entity that actually employs
- [ ] **Monthly filing.** Is the EMP201 declared and paid by the 7th, and the UIF declaration submitted separately
- [ ] **Reconciliations.** Were both the interim and annual EMP501 filed, and do the monthly totals reconcile exactly
- [ ] **Tax numbers.** Do we hold a valid income tax reference number for every employee, including leavers
- [ ] **Good standing.** Is the COIDA Return of Earnings filed and the Letter of Good Standing current
- [ ] **Leave cycles.** Is sick leave configured on a 36-month cycle rather than annually
- [ ] **Parental leave.** Has our policy been updated for the position set by the Constitutional Court in October 2025
- [ ] **Deductions.** Does anything we deduct from pay meet the requirements of section 34
- [ ] **Discipline.** Do we have a disciplinary code aligned to Schedule 8, issued to and acknowledged by every employee
- [ ] **Records.** Are we retaining employment and tax records for the correct periods, from the correct starting points
- [ ] **Headcount.** Do we know how close we are to 50 employees, and how our people are counted towards it

Where the answers usually cluster

In our experience the first, third and ninth questions are where international employers most often find a gap. Classification, incomplete written particulars, and sick leave configured on the wrong cycle are the three issues that recur, and each is straightforward to correct once identified.

CLOSE

Who carries it

Every obligation in this guide attaches to the legal employer. That is the whole of the structural question, and it has two answers: incorporate in South Africa and build the capability yourself, or employ through a partner that already has it.

Incorporation makes sense at scale, or where you need to hold local intellectual property or contract directly with South African customers. Below that, building a payroll, tax and employment law capability for a handful of people is a poor use of finance and HR time, and the failure modes are the ones set out on page 07.

An Employer of Record resolves it by being the employer. The registrations exist, the calendar is already run, the records are retained, and the individual is genuinely and correctly employed. You direct the work as you would with any team member.

Employing in South Africa without a local entity

Employer of Record South Africa is the legal employer for teams hiring South African talent, with compliant contracts, rand payroll and every statutory submission handled. Fixed monthly fee per employee, typical onboarding in one to three business days.

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Principal sources. Labour Relations Act 66 of 1995, including sections 194 and 200A. Basic Conditions of Employment Act 75 of 1997, including sections 29, 31 and 34, and the earnings threshold determination effective 1 May 2026. Income Tax Act 58 of 1962, Fourth Schedule, and SARS Interpretation Note 17. Tax Administration Act 28 of 2011. Unemployment Insurance Contributions Act 4 of 2002. Skills Development Levies Act 9 of 1999. Compensation for Occupational Injuries and Diseases Act 130 of 1993. Employment Equity Act 55 of 1998 as amended, with the 2025 Regulations and Determination of Sectoral Numerical Targets. Protection of Personal Information Act 4 of 2013. SARS published guidance on the Employer Annual Reconciliation, 2026. Labour Law Amendment Bill, Government Gazette No. 54220 of 26 February 2026.