COVID-19: SMALL BUSINESSES, EMPLOYMENT LAWS, AND SURVIVAL SUPPORT

“The secret of crisis management is not good vs. bad, it’s preventing the bad from getting worse” (Andy Gilman)

We can only guess at how the COVID-19 coronavirus outbreak will end, but let’s all take whatever concrete steps we can right now to lessen its impact on our personal lives, on our businesses, and on our country.

One of those steps is for businesses to find ways of continuing to operate as normally as possible, given of course the exceptional times we are living through. And as employers, many businesses will find themselves facing some novel challenges, particularly during the National Lockdown…

Small businesses – the new relief programs

A whole raft of support and relief programs has been announced. Some still need to be finalised and the situation is changing daily, so keep an eye on the media and incorporate into your business survival plan all relief channels you think may be open to you. At date of writing, these are the main ones:

* The DSBD (Department of Small Business Development) will provide relief to businesses in several categories. Call the DSBD on its 0860 663 7867 hotline or email info@dsbd.gov.za to see if you quality. Apply at https://smmesa.gov.za/.

* The DTI (Department of Trade and Industry) is set to provide relief for large businesses as well as small. Keep an eye on the DTI’s website for developments.

* The Solidarity Fund has been set up with R150 million from the government to, amongst other things, assist and support those affected (contact details here).

* Employer and employee relief: Access the “Easy Guide for employers on COVID19” here and read up on the “Temporary Employer/Employee Relief Scheme” and UIF benefits from a special R30bn National Disaster Benefit Fund. Confirmation that employees who fall victim to the virus will be paid through the Compensation Fund - details here.

* Other funds and relief measures: The Rupert and Oppenheimer families have pledged R1 billion each to help struggling small businesses and employees – the details are not available at date of writing. Read the President’s speech here for more on planned or implemented measures involving tax relief, changes to the Competition Act, a fund to support the tourism sector, and more.

Employers - comply with the law!

From a legal perspective, employers in particular need to have a solid action plan in place to ensure that they comply with all our many employment laws, which will continue to apply as is, unless and until government announces any new measures to the contrary.

Detailed planning will not be easy. With the situation changing daily, keep informed of developments and keep all your plans flexible.

In any event there is unfortunately no “one size fits all” answer to questions like “Can I dismiss an employee who tests positive for COVID-19?”, “Can my employees insist on working from home?”, “Can I start retrenching?”, “Can I prohibit employees from travelling abroad for personal reasons?”, “What steps must I take to ensure a safe working environment and what rules can I put in place to underpin them?”.

The list is endless and the answers to these questions will depend upon your Lockdown exemption status, your particular employment contracts, business circumstances, operational needs, and so on.

Your employee action plan

We need to get used to constant change and uncertainty, but there are steps you can take now to plan for as many eventualities as possible -

As a start, incorporate into your “COVID-19 Business Plan” all the possible scenarios you can think of, both during the National Lockdown and after it ends.

Then brainstorm – with your employees where you can - a list of all the employment-related problems you and they might face. Use that in turn to make a list of questions you will need the answers to under each scenario.

Then, make sure you are fully prepared to deal with whatever may come your way by taking specific legal advice on each and every one of those questions.