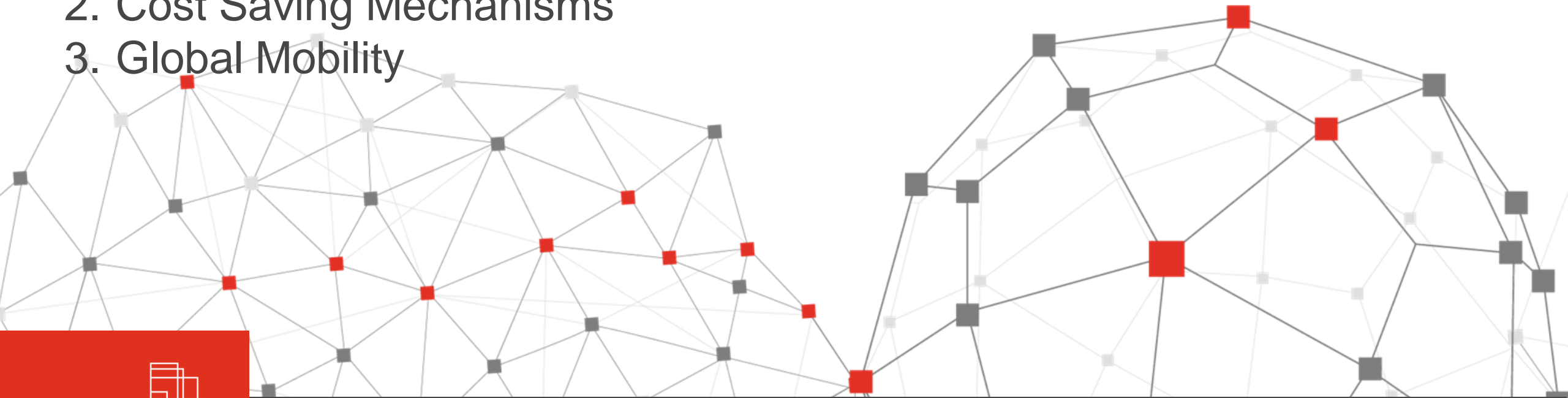


COVID-19

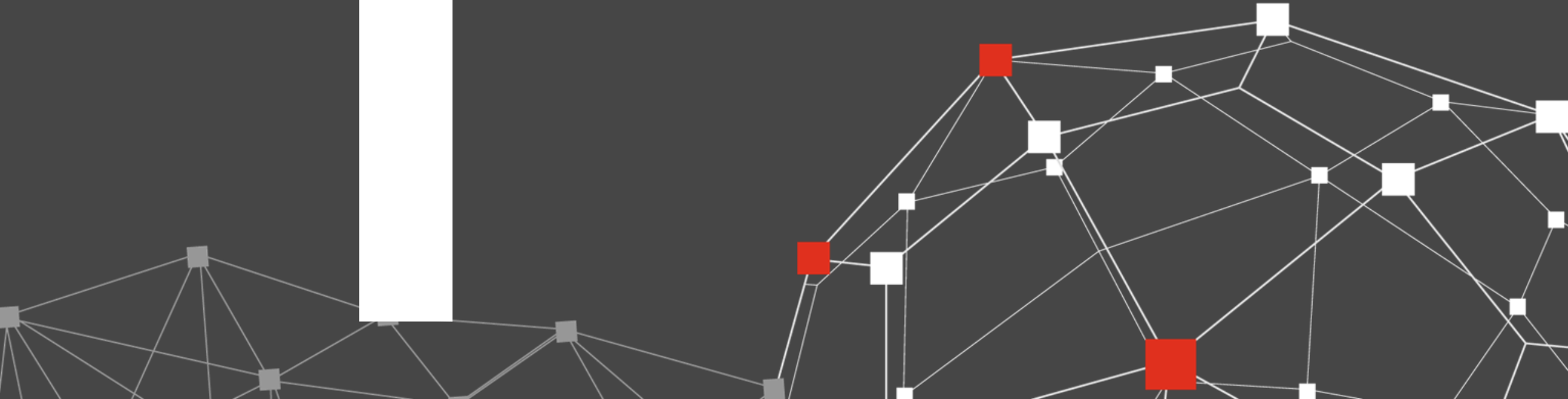
Employment Considerations

1. Occupational health and safety measures in workplaces
2. Cost Saving Mechanisms
3. Global Mobility





Occupational Health and Safety



Occupational health and safety measures in workplaces

As the lockdown in South Africa is eased and businesses start to re-open, ensuring the health and safety of employees and members of the public will be of paramount importance.

To reduce and eliminate the escalation of Covid-19 infections, the Minister of Employment and Labour signed a **Direction** in terms of section 10(8) of the National Disaster Regulations that provides for measures employers are required to.

Employers with more than 10 employees must address the following:

1. Administrative measures
2. Social Distancing
3. Occupational Health and Safety



1. Administrative Measures

Employers with more than 10 employees need to:

- undertake a **risk assessment** to give effect to the minimum measures required in terms of the Directive, and furthermore ensure that the plan is strictly complied with through monitoring and supervision;
- take **measures to minimise contact** between workers as well as between workers and members of the public;
- **notify all workers** of the contents of the Directive and the manner in which the employer intends on implementing it;
- notify all workers that **if they are sick** or show any symptoms associated with Covid-19, **that they must not come to work** and must take paid sick leave;
- **appoint a manager** to address employee or workplace representative concerns; and
- provide workers with information that **raises awareness**, including information on Covid-19 transmission, personal hygiene, use of masks and cough etiquette.

Should a worker be diagnosed with Covid-19, an employer must inform the Department of Health (through the Covid-19 hotline: 0800 02 9999) and the Department of Employment and Labour. The employer must investigate the cause including control failure and reviewing its risk assessment.

Plan for re-opening

After completing the risk assessment, employers should **develop a plan** outlining the protective measures in place for the phased return of employees before opening.

The **plan** must include the following:

- the date that the workplace will open and the hours of opening;
- a list of employees permitted to return to work and those who are required to work from home;
- the plan and time-table for the phased-in return of employees to the workplace;
- identification of the vulnerable employees;
- ways of minimizing the number of workers at the workplace at any one time;
- the workplace protective measures required to be taken in terms of the OH&S Direction and any sectoral guideline to get the workplace Covid-19 ready;
- the measures for the daily screening of employees and the screening of clients, contractors and visitors to the workplace; and
- the details of the compliance officer.

If the employer **employs more than 500 employees**, **submit a record** of the risk assessment together with a written policy concerning the protection of the health and safety of its employees from Covid-19 to its health and safety committee and the Department of Employment and Labour at the Provincial Chief Inspector on the DEL's website.

2. Social Distancing

- Employers must ensure minimal contact between workers and ensure a **minimum of 1.5 metres between workers**
- Reducing the **number of workers present in the workplace** at any time may assist with achieving social distancing measures
- If the minimal distance is impractical, employers must arrange **physical barriers** to be placed between workstations to provide a solid physical barrier between workers or supply workers with appropriate PPE (face shields, gloves etc). These measures will also apply to workplaces to which the public has access.

3. Occupational Health and Safety

Symptom Screening

Daily symptom screening must take place when workers report for work each day. Employers must comply with the Directive and guidelines issued by the Department of Health in this regard. **Workers presenting symptoms must not be permitted to enter the workplace and must be isolated** and provided with a FFP1 surgical mask before being transported for medical examination or testing

Sanitizers

Every employer must ensure that there are **sufficient quantities of hand sanitizer** (at least 70% alcohol content) for all persons accessing the workplace.

Adequate facilities for washing hands with soap and clean water must be provided and the use of fabric towels to dry hands after washing is prohibited. Paper towels should be provided. Employees should be required to **wash and sanitise hands regularly** while at work.

Every employer must take measures to ensure that **all work surfaces and equipment are disinfected before work begins**, regularly during the working period and after work ends.

Biometric systems must be **disabled**.

Take measures to ensure that all **areas such as toilets, common areas, door handles and shared electronic equipment** are regularly cleaned and disinfected.

Cloth masks and PPE

The wearing of face masks in public is **compulsory**.

Every person in the workplace must be provided with a minimum of **two cloth face masks** (free of charge). Further requirements are contained in these government issued guidelines. Other workers who are not employees must also wear a face mask in the workplace.

The employer must make appropriate arrangements for the **washing, drying and ironing** of all cloth masks.

Employees must be **informed, instructed and trained on the safe and healthy use** of cloth masks.

Where a risk assessment indicates that PPE is required, the employer must provide them with **medical, surgical or other types of masks, shields or other PPE in accordance with Department of Health guidelines**.

3. Occupational Health and Safety (Cont'd)

Members of the public

Depending on what is reasonably practicable, arrange the workplace to ensure that there is a **distance of at least 1.5 metres between workers and members of the public**, or between members of the public. For this purpose, the employer must determine the floor area of the workplace in square meters to determine the number of customers and workers that may be inside the workplace at any one time with adequate space available.

If reasonably practicable, put in place **physical barriers** or provide workers with masks or face shields, or visors.

If reasonably practicable and appropriate, undertake **screening measures** of persons other than employees who enter the workplace.

If appropriate, **display notices** advising persons other than employees entering the workplace of the precautions they are required to observe while in the workplace, and **require members of the public**, including suppliers, to wear masks when inside the premises.

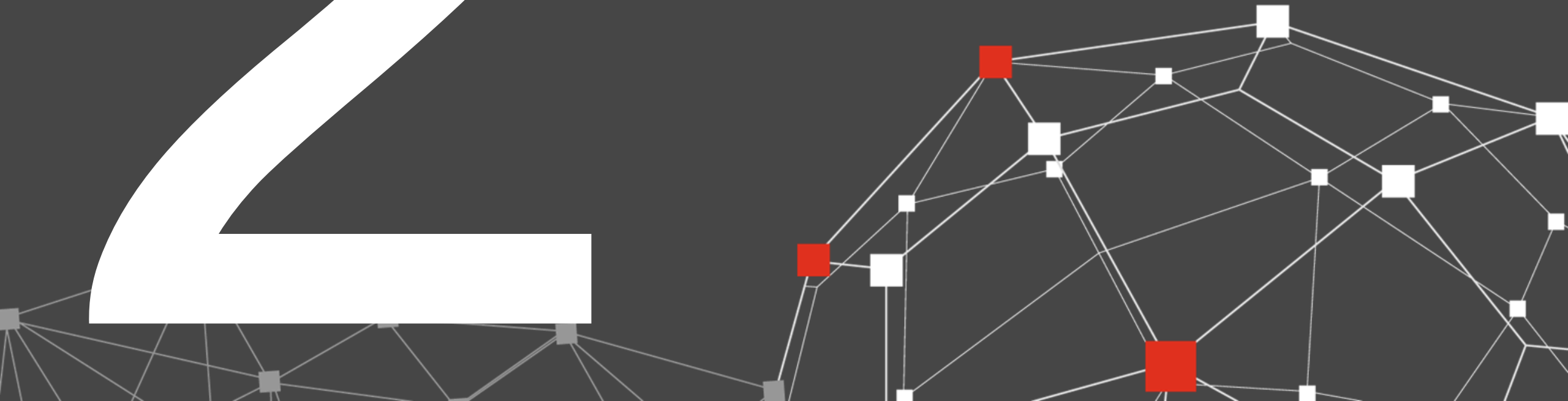
Take steps to ensure that customers **queueing** inside or outside the workplace are able to maintain a distance of at least 1.5 metres from each other

Ventilation

The workplace must be well ventilated, and where reasonably practicable, effective local extraction ventilation systems with high-efficiency particulate air HEPA filters should be used. Filters must be cleaned and maintained regularly.

2

Employee Cost Saving Mechanisms



Employee Cost Saving Mechanisms

During the lockdown period, the payment or non-payment of salaries will be informed by whether employees are working on company premises / able to work remotely / able to perform some duties or not able to perform any duties. Employers have a number of options in instances where limited work or no work is being performed.

Employers may wish to consider how and when to **reduce the employment and labour costs in a lawful manner where no or limited work is being performed**. This may be contemplated to ensure the continued operations of the business as well as its long term sustainability. Retrenchment should not be the first port of call under the current, challenging economic conditions. In addition to taking advantage of the COVID-19 Temporary Employer / Employee Relief Scheme (“**TERS**”), employers can consider the following:

Short Time

Short time is where an employee’s working hours are reduced and, as a result, his/her remuneration.

Furloughs or temporary lay-offs

Furloughs or temporary lay-offs entails the suspension of the employee’s obligation to tender services and the employer’s obligation to pay remuneration – for a period of time. The employee remains employed but does not receive a salary while he/she is not working

Salary reductions

Salary reductions involves an employee’s hours of work remaining the same but his/her salary is reduced.

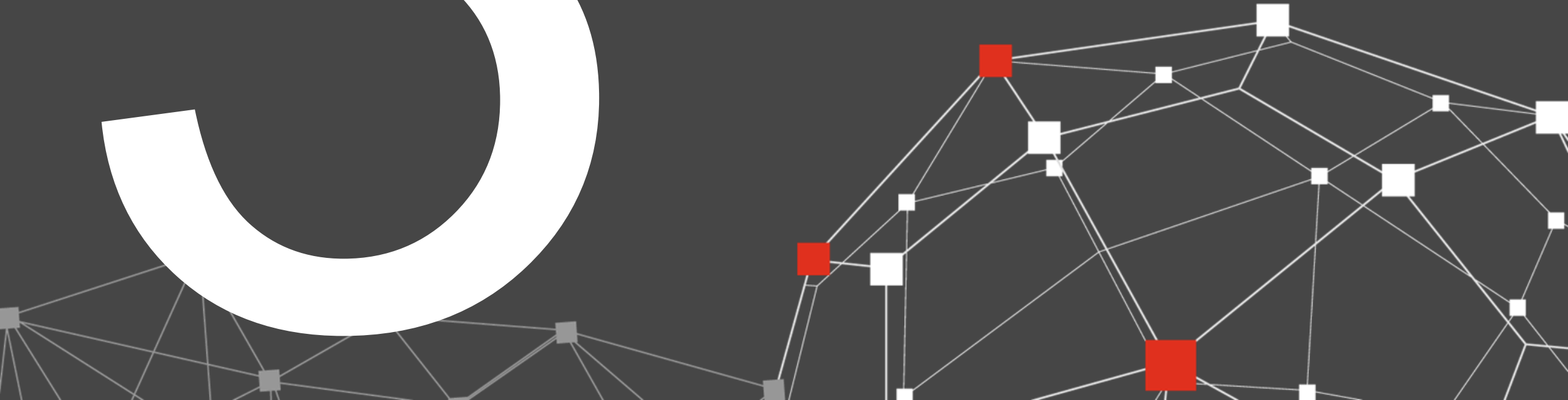
Sabbaticals (paid or unpaid)

During a sabbatical employees are allowed to take extended periods of leave either with or without remuneration

Importantly, where any measure (short of dismissal) results in a change to terms and conditions of employment of employees, it must be implemented by agreement with the employees or relevant parties (such as trade unions). The measure cannot be unilaterally implemented.

3

Immigration and Global Mobility



Global Mobility tax challenges arising from the Covid19 pandemic

South Africa is currently under Level 3 of the Covid 19 lockdown. At this level, our borders remain closed for international travellers and currently the only travel permitted relates to repatriation of South African Citizens/Permanent Residence holders and Foreign Nationals to their home countries.

Visa Impact:

- "Revoking" of visas issued abroad prior to the lockdown in March 2020: No official communication has been released but this would appear to relate to the removal of the Visa Exemption for Visa exempt countries and the cancellation / revoking of all recent unused visas issued to non Visa Exempt countries (short and long term).
- It is not foreseen that this will result in a permanent cancellation of all unused long term work / residence visas (rather a temporary restriction on the use of such visa), however the Government retains discretion and practical challenges around validity periods / entry dates are bound to occur.
- Foreign nationals present in South Africa under issued visas should be viewed as legally resident in the country within the validity period of their visa and thus mandatory instructions to depart the country are not expected. Please refer to formal communication from the Department of Home Affairs in South Africa regarding the treatment of foreign nationals whose immigration status has been impacted by the lockdown.
- Currently the view is that the South African Immigration Authorities may resume their visa operations at Level 2 of the lockdown.

Global Mobility tax challenges arising from the Covid19 pandemic

Many companies are experiencing the following **mobility tax issues** as a result of the pandemic:

- Assignee's remaining in host countries beyond the anticipated duration due to the lock down restrictions. This **impacts immigration status, treaty exemption matters, social security obligations, home/host employment tax obligations and potential corporate Permanent Establishment concerns.**
- Additional benefits being provided during Covid-19 period which may have a **personal tax or employment tax implication** for the assignee or company in home/host locations (such as technology and home office costs, additional flights accruing, extended accommodation)
- **Delays to assignments** impacting business continuity and need to find interim solutions. This is particularly challenging due to immigration delays and lack of certainty on country reopening timetables.
- Commencement of assignments "virtually" while remaining in the home country. This creates significant **personal tax, corporate tax and employment tax obligations and risks.**
- Impact on assignment related **allowances** (e.g. Cost of Living Allowances, hardship allowance) where working away from their host countries for a temporary period.
- **Suitability of mobility policy** or related country supplements to account for such unforeseen crisis events.
- Covid-19 specific legislation which impacts tax treatments. To date from a South African perspective there has **not been any specific legislation impacting inbound and outbound assignees**, and we do not presently anticipate anything in the immediate future. There has however been some employment tax related reliefs which impact employees in general and thus can have some bearing on assignees.

Department of Home Affairs - published on 14 April 2020

Temporary measures to deal with immigration issues during the national lockdown.

Temporary measures will remain valid until **31 July 2020** unless extended officially by the Department of Home Affairs. They apply only to foreign nationals who have been legally admitted into the Republic of South Africa.

Expiry of Visas

Holders of temporary residence visas which expired from mid February 2020, who did not renew their visas before the lockdown, will not be declared illegal or prohibited persons.

Any person whose visa expired before or during the lockdown will not be arrested or detained for holding an expired visa.

Those who opt to return to their countries of origin or residence after the lockdown instead of renewing their visas will not be declared undesirable upon departure.

Visa Application and Adjudication

During the lockdown, the Department is not receiving or adjudicating applications for visas and for permanent residence permits.

Foreign nationals whose visas expired after 15 February 2020 may reapply for their respective visas or relevant visa exemptions while in the Republic immediately after the lockdown has been lifted. They will not be required to apply for authorisation to remain in the country (Good Cause/ Form 20).

Foreign nationals whose visas expired after 15 February 2020 who had scheduled appointments on dates which fall within the lockdown period should reschedule their appointments to an available date after the lockdown has been lifted.

Work, study and business

People whose visa expired during the lockdown and those who have submitted their applications before the lockdown but their applications are still pending, will be allowed to work, study or conduct business after the lockdown while waiting for the outcome of their applications.

Department of Home Affairs - published on 14 April 2020 (Cont'd)

Temporary measures to deal with immigration issues during the national lockdown.

Temporary measures will remain valid until **31 July 2020** unless extended officially by the Department of Home Affairs. They apply only to foreign nationals who have been legally admitted into the Republic of South Africa.

Visas for High Risk Countries

Visas issued to nationals of high risk countries who were outside the Republic on 15 March 2020 were revoked as per the Directions issued by the Department in terms of the Disaster Management Act, 2002. These visas remain revoked.

Departure of Foreign Nationals

During the lockdown, except for cases relating to expatriation initiated by another state, all foreign nationals who are currently in South Africa may not depart.

Lesotho Exemption Permit

Holders of the Lesotho Special Permit have up to 15 June 2020 to submit their applications for the Lesotho Exemption Permit.

The Lesotho Special Permits which expired on 31 December 2019 remain valid until 15 June 2020. No new applications will be taken.

Expiry of Asylum Seeker Permits

Any asylum seeker whose visa expired from 16 March 2020 to the end of the lockdown period will not be penalised or arrested provided that they legalise their visa within 30 calendar days of the lockdown being lifted.

Thank you

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