

Cobalt Solutions  
For Business Owners



## THE RIGHT TO AN ANNUAL BONUS

**Question:** Does an employee have a right to an annual bonus?

**Answer:** There is no general duty upon an employer to pay its employees an annual bonus.

**Brief explanation:** The Basic Conditions of Employment Act of 1997 does not make provision for bonuses. However, if the employer's business falls in an industry or area where a bargaining council agreement applies, such collective agreement may contain a provision obliging the employer to pay an annual bonus. A contract of employment may also contain a provision referring to a 13<sup>th</sup> cheque or other bonus (e.g. performance bonus or production bonus). The employer may be contractually bound to pay such 13<sup>th</sup> cheque or bonus, unless it has been specifically stated that it is subject to the employer's discretion.

A more controversial matter is where there is no specific agreement to pay a bonus, but where it has become custom or practice to do so. It is arguable that employees can claim a right to a bonus on the basis that it has become part of their terms and conditions of employment. However, the onus in this case would be on the employees to prove that they have acquired such a right.

*Article written by Jan Truter of [www.labourwise.co.za](http://www.labourwise.co.za)*