

Annual Labour Law Conference to examine impact of amendments to LRA

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The 28th Annual Labour Law Conference takes place at the Sandton Convention Centre from 4-6 August 2015. It is jointly facilitated by the Institute of Development and Labour Law at the University of Cape Town, the Centre for Applied Legal Studies at the University of Witwatersrand and the School of Law at the University of KwaZulu-Natal, in partnership with LexisNexis South Africa.

It will examine the impact of the long-awaited amendments to the Labour Relations Act (LRA) and other crucial developments, including the divisions within COSATU, the government's call to implement a National Minimum Wage and the Employment Equity Act's (new) provisions governing pay inequality.

There have been major amendments to the LRA to protect three categories of non-standard (atypical) workers. These are employees employed by labour brokers or Temporary Employment Services (TESs), fixed-term employees and part-time employees. Most of the protections only apply to employees earning less than R17 119.40 per month, and only with effect from March 2015.

TES Employees

In terms of the new section 198A of the LRA, employees of the TES who are placed with a client for a period of longer than three months are considered employees of the client, other than in certain specified circumstances. Where the employee is removed from the client prior to the expiry of the three month period to avoid this new provision, this will be treated as a dismissal. Employees who are deemed to be employees of the client, must be treated on the whole not less favourably than the other employees of the client, unless there are justifiable reasons for differentiating between them.

Fixed term contract employees

Generally, employers may engage employees on a fixed-term contract or successive fixed-term contracts for longer than three months only if the nature of work is of a limited or definite duration; or if there is another justifiable reason for fixing the term of the employment contract. Examples of justifiable reasons would include replacing another employee who is temporarily absent or where the employee is engaged to handle a temporary increase in work. Where there is no such justifiable reason for the fixed term, the employee's employment will be deemed to be indefinite.

Part time employees

In terms of section 198C of the LRA, part time employees generally may not be treated less favourably than their full time counterparts.

ABOUT THE AUTHOR

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