

LABOUR LAW AMENDMENTS ARE DEVASTATING!

RSS 

What is RSS?



The newly amended Labour Relations Act (effective since 1 January 2015) are having a devastating impact not only on the national recruitment and staffing industry but also on the **economy** and the country's unemployment rate – which the act itself seeks to relieve – if they continue to be interpreted by some stakeholders in a narrow light.

Amendments cause uncertainty

The amendments to the act have caused uncertainty in the **market** and has been highlighted as likely to cost the country 254 000 jobs. The interpretation of and uncertainty surrounding these amendments has already resulted in the folding of a number of small to medium sized recruitment companies – a number of which are Black-owned – and as a result, goes against government's intention to support and grow **Black business**.

In compliance with the Labour Relations Amendment Act, No 6 of 2014 (LRAA) – which aims to streamline the country's labour **environment** and protect vulnerable workers – South African businesses are required to adjust the way in which they have traditionally employed and managed staff in their organisations.

Although the amendments strive to protect these temporary workers though permanent employment, the outcome has been to the contrary and has seen companies reassessing their workforce altogether and downscaling activities.

The amendment of section 198A or the "deeming clause" notes: Employees Employed By A Temporary Employment Service (TES): Employees who earn below the Basic Conditions of Employment Act 75 of 1997 (BCEA) threshold (presently an amount of R205 433.30) and who are not performing temporary services will be deemed to be the employees of the client and not the TES, will be deemed to be indefinite employees and may not be treated less favourably than employees of the client. Effective from 1 April 2015, this section (sec 198) will apply to employees procured for or provided to a client by a TES before the commencement of the amendment act (1 January 2015).

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Some institutions and legal entities appear to interpret the amendment to mean that assignees, or temporary workers, transfer permanently to the client after the three month period. This is the incorrect interpretation and, if it is, will amplify serious issues, which we have already seen arise in the atypical job market since talk of the act began.

Unintended consequences

This interpretation – which we challenge being set as a precedent – is likely to act as a disincentive for employers who have utilised TES to upscale their workforce if and when needed. The act has already had unintended consequences on the market and the "deemed provision" has resulted in the loss of a number of temporary jobs.

The ultimate concern in terms of the amendment is that in an attempt to ensure permanent employment for temporary workers, the opposite is likely to occur as companies who require temporary or project-based staff, simply cannot afford to hire this workforce on a permanent basis.

This can easily lead to both businesses closing their doors as they are unable to take on large projects, as well as temporary workers, who would have been on-boarded for the particular project, sitting without any work opportunity at all.