

How effective is Section 198B of the LRA in curbing the misuse of fixed term contracts in South Africa?

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Abstract

Section 198B of the Labour Relations Act (LRA) of South Africa regulates fixed term contracts of employees earning below the threshold of the Basic Conditions of Employment Act (BCEA). This paper seeks to understand the challenges faced by employees who have been re-engaged several times by the employer; investigate the types of strategies/mechanisms used by employers to circumvent the requirements of section 198B when employing fixed-term contracts; ascertain the effectiveness of the remedies available to fixed-term contract employees in an event that there is a contractual dispute. The methodology utilised in this paper is purely exploratory in nature. The primary sources of information utilised in this paper are desktop research and case law decisions on the use of fixed-term contracts. The findings of the paper reveal that Section 198B of the Labour Relations Act 66 of 1995 affords greater protection and job security to fixed-term contracts which was non-existent prior to the amendment of the Act. An Audit on the use of fixed-term contracts by Public Institutions should be undertaken. Employees engaged on fixed-term contracts of more than 3 months should be treated equally like those employed on permanent basis. Lastly, employers should be carefully monitored on the number of times they continuously engages fixed-term employees.

Keywords: Fixed-term contracts; LRA, Section 198B; BCEA.

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