



Amendments to the LRA, BCEA and Insolvency Act

In 1999, the Department of Labour conducted a review of all labour legislation. This resulted in the government proposing amendments to the LRA, the BCEA and the Insolvency Act. According to government the purpose of these amendments is to:

- increase the sensitivity of our legal framework to the need to create jobs;
- address the unintended consequences of some provisions of our laws;
- improve the application of the laws;
- ensure the effective alignment of our laws with the changing labour market environment.

We will discuss some of the proposed amendments to these Acts.

The LRA

Disclosure of information disputes

Section 16 requires employers to disclose all relevant information to a trade union so that it may perform its functions effectively. This includes consultations about retrenchments.

Employers often refuse to disclose information to trade unions on the grounds that the information is not relevant. They argue that the trade union must prove that the information is relevant, even though the trade union has not seen the information.

Anton Roskam and Doris Tshepe explain some of the proposed changes to the LRA, BCEA and Insolvency Act.

The proposed amendments put the burden on the employer to prove that the information requested by a trade union is irrelevant.

Extending collective agreements

Section 32 provides that a bargaining council may ask the Minister of Labour to extend a collective agreement concluded at the council to any non-party that is within the registered scope of the council.

The proposed amendments give the minister the power to refuse to extend a collective agreement if an employer who is not a party to a council has not been given an opportunity to make representations to the bargaining council about any collective agreement that is submitted to the minister for extension.

Representation of parties

The LRA does not allow labour consultants to represent parties at conciliation and arbitration at the CCMA and at the Labour Court.