



SALGA
South African Local Government Association

SALGA SUBMISSIONS ON THE LABOUR RELATIONS ACT & BASIC CONDITIONS OF EMPLOYMENT ACT AMENDMENT BILLS

31 JULY 2012



Brief Introduction of SALGA

- South African Local Government Association (SALGA) derives its mandate as voice & sole representative of Local Government (LG) from Section 163 of the Constitution;
- SALGA's role is to:
 - Represent, promote and protect the interests of Local Government;
 - Transform Local Government to enable it to fulfil its developmental responsibilities;
 - Raise the profile of Local Government;
 - Perform its role as an employer body; and
 - Develop capacity within municipalities.
- As the employer body of municipalities, it is responsible for a sector that employs over 230,000 employees;
- Amongst the apex priorities of SALGA is that of leading the review of legislative & policy framework affecting LG



SALGA Overall Impressions about Amendment Bills

- In general, SALGA supports the policy objectives of Bills which are, *inter alia*,
 - creation of employment & decent work;
 - protecting vulnerable employees against abusive practices i.e. labour broking;
 - introducing provisions for dealing with strike related violence; and
 - extending organisational rights, albeit it to trade unions only
- In the same vein, SALGA believes the amendments don't go far enough, hence suggested inclusions made

Comments on LRA Amendments

DESIGNATION OF REFUSE COLLECTION/REMOVAL AS ESSENTIAL SERVICES

- Currently refuse collection only becomes an essential service after 14 days of non-collection;
- SALGA requests the Essential Services Committee to ratify and make it an essential service immediately & for LRA to provide for that, as current dispensation nullifies objectives of health & safety, especially at municipal level

REPRESENTATION OF SALGA ON NEDLAC AND ILO

- Envisaged amendments under Clauses 21 & 22 provide for inclusion of non-standard workers & the granting of organisational rights to (TES) employees, but does it go far enough in considering current inadequacies of representation at a sectoral level?
- Local Government is a distinct sphere of Government with a distinct employment and labour relations regime to National & Provincial Government, represented at NEDLAC as GOVERNMENT;
- Current NEDLAC Act excludes Local Government, although it is quite clearly a different employer in the context as a whole being considered as an EMPLOYER;
- A similar situation exists in terms of the representative role assigned to Government at the ILO;
- Therefore a submission is being made by SALGA for its representative role as the voice of LG to be affirmed at both NEDLAC and the ILO



Comments continued ...

LIABILITY FOR DAMAGE TO PUBLIC PROPERTY

- LRA provides for participation in lawful union activities;
- However there tends to be violent activity in lawful strikes;
- Currently, unions only liable if strike was unprotected;
- Constitutional Court decision (SATAWU vs Garvis & Others) allows victims to claim damages even if strike is legal; and
- This landmark decision further advances the call made by SALGA that LRA Amendments to Section 68(1) (b) should provide for compensatory damages even if strike is deemed legal in 'circumstances' where there is wilful damage to public property

STRIKES AND LOCKOUTS

- In terms of envisaged amendment, protected strikes/lockouts will now require a ballot to be legal, however amendments do not clarify that ballot must be secret;
- SALGA advocates for a secret ballot to be made a requirement, as it is crucial for the effectiveness of the ballot and because of the goal of democratising the workplace; and
- In addition, SALGA recommends that consideration be given to approach the courts, should strike turn violent and declare it illegal

Comments continued ...

UNFAIR DISMISSALS

- The amendments of S187(1)(c) as formulated, do not seem to capture their intended objective

DISMISSALS ASSOCIATED WITH OPERATIONAL REQUIREMENTS

- Section 189A(2)(d) should be applicable to all of Section 189
- If not, the courts will decide on the jurisprudence

EMPLOYEES ON FIXED-TERM CONTRACTS

- The proposed Section 198B(3) poses serious challenges for LG;
- All senior managers are on performance based fixed-term contracts;
- Constitution permits LG to determine term of employment for senior management;
- This provision of the Amendment should be considered for inclusion only if it recognises that LG has an existing legislative regime that caters for fixed-term contracts employment

REGULATION OF LABOUR BROKERS

- SALGA is in support of the Amendment Bill objectives to regulate labour broking recognising differences between sectors & considering that LG has a credible record of proving decent work through bargaining standards agreed upon



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THANK YOU