



EMPLOYMENT CODE ACT NO. 3 OF  
2019: CHALLENGES FACED AND  
AMENDMENTS THAT WILL ENHANCE  
EMPLOYEE EXPERIENCE

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# THE NOTION OF LAW

- ▶ The notion of Law is linked to society and social groups because where there are social groups, social relations are triggered and where there are social relations, law arises.

Every single society, no matter how primitive it is, must be provided with some sort of rules aimed at **regulating peaceful coexistence among its members.**

## **HISTORICAL FORMS OF WORK**

The slave mode of production: an work regime based on property rights of a person (the master) over another (the slave or servant).

The feudal mode of production (feudalism): a work regime based on subordination within the context of vassalage relationships.

## **INDUSTRIAL REVOLUTION**

The capitalist mode of production (capitalism): work is based on the free exchange of labour for remuneration.

## THE GLOBAL COMMISSION ON THE FUTURE OF WORK (ILO AGENDA)

Throughout history, people have always performed some kind of work. The main objective of such work is self-preservation.

- Everything which is necessary for human life and development is created by work.

Work is an essential guarantee for economic and social independence and the sovereignty of people. At the same time, work cannot be separated from people. Work and the persons who perform the work are inseparable.

Workers depend on the remuneration they receive. Such dependence means that the remuneration for work is of vital importance to workers and their families. All of their life depends on the remuneration payable for their work.

## ESSENCE OF LABOUR LAWS

Labour law focuses on human work and the regulation of the relationships arising from the use of human work.

- ▶ Labour law aims to correct the imbalance of power between the worker (weaker party) and the employer.

They reflect the values we hold as a society and our commitment to the ideal of the equality of all people.

Employment (or labor) laws provide the foundation for an economic system!

## THEORY OF ORGANISATION AND PRODUCTIVITY: AN IMPERATIVE FOR COMPETITIVENESS

Economy made up of different economic units.

Any organization that wishes to be efficient and achieve its goals must adopt include best practices, within the framework of labour laws, to ensure the well being of the company and its employees.

This then propels economic development that lifts people out of poverty.

**Therefore**, the Employment Code Act sought to create an environment that supports good management of enterprises without sacrificing the ability of people to work and receive remuneration that sustains them and their families.

# ECA: CHALLENGES FACED

## INTERNAL

Capacity of administrators

Inadequate number of administrators

Ambiguity legal provision

inadequate labour market surveillance and intelligence



## EXTERNAL

Non-standardized HR Fraternity.

Lack of platform to engage with employers/industry/HR Profession outside the TCLC framework.

## ECA: CHALLENGES FACED

### SYSTEMIC

Policy instability: Underlying economic and labour policy is susceptible to change every five years; i.e., flexible v protectionist approach.

Infant industry concept: regulation by uniform or differentiated legislative provisions.



## ECA: AMENDMENTS THAT WILL ENHANCE EMPLOYEE EXPERIENCE

### ➤ Clarifications of key definitions;

equal pay for work of equal value: to mean work that is equal in terms of the demands it makes regarding matters such as skill, duty, physical and material effort and responsibility.

The exceptions to paying work of equal value may be seniority and length of service for example.

- Determining work of equal value should involve using objective job evaluation, a formal procedure which, through analysing the content of jobs, seeks to determine the value of jobs.

## ECA: AMENDMENTS THAT WILL ENHANCE EMPLOYEE EXPERIENCE CONT'D

Clarify the law on discrimination- define inherent requirement for a job: a bona fide, permanent attribute and/or quality that is an essential element of the job.

Reclassification of contract types for greater clarity.  
e.g: long term v short term (or revert to fixed term contract nomenclature?)

promulgation of conditions that are required to be set by SI. E.g. forced leave,

ECA: AMENDMENTS THAT WILL ENHANCE EMPLOYEE  
EXPERIENCE CONT'D

Revise the provisions on redundancy to enhance genuine/bona fide consultations.

Resolve the ambiguity existing in section 54  
on severance pay.

Promulgate conditions that are required to be set by SI. E.g. forced leave.

Enhance the mandate of the skills advisory committee (in pursuit of life long employability v permanent employment)

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