



PO Box 12758, Centrahil, Port Elizabeth, 6006 • 13 Mclean Rd, Mill Park, Port Elizabeth, South Africa, 6001
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SOUTH AFRICAN LABOUR LAW REPORTS' SEMINAR PROGRAMME 2024

August to September 2024

- 07h00 – 08h00: Registration
- 08h00 – 08h05: Welcome and opening address, Adv Cameron Morajane, Director of the CCMA
- 08h05 – 08h10:
- SALLR published judgments, awards and rulings utilised during the seminar
 - SALLR seminar source material
- 08h10 – 08h30:
- SALLR earnings guidelines: corporate, formal, informal and non-corporate sectors
 - Stats SA earnings by level of education
- 08h30 – 09h50: SALLR delegates requested topics
- Payments erroneously made to an employee and a subsequent deduction to recover such payment
 - Dealing with 'modern trade unions' formed by workers in non-standard employment relationships
 - Breathalyser test results as opposed to laboratory blood test results
 - Constructive dismissals, harassment and victimisation
 - The effect of the high court finding that sections of the BCEA, dealing with maternity leave, parental leave, adoption leave and commissioning parental leave, are unconstitutional
 - The elements that a charge sheet must comply with to be branded as fair
 - Pay differentials on listed grounds and an arbitrary ground, as well as the availability of defences
 - The latest developments regarding suspensions: non-compliance with an inherent requirement of a job, unlawful suspension and grounds upon which suspension can take place without payment
 - The end of automatic non-qualification of an applicant for a job on the basis of his/her criminal record
 - Cannabis testing, policy development and grounds for unfair discrimination
 - New developments in procedural fairness challenges regarding large scale retrenchments
- 09h50 – 10h00: Contractual rights and obligations
- Termination without following a process of consultation contractually required
 - An application to declare unlawful an employer's internal records reflecting dismissal
 - Circumstances upon which specific performance will not be granted in unlawful dismissal matters





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- 10h00 – 10h30:
- Tea and coffee break
 - Delegates posing questions on the SALLR WhatsApp group
- 10h30 – 10h45:
- Civil jurisdiction
- Settlement agreements
 - The latest viewpoint that a delictual claim cannot co-exist with a claim under the LRA
 - Delictual accountability when a contractual arrangement has been unlawfully interfered with
- 10h45 – 11h05:
- Misconduct
- Employee electing not to testify at the disciplinary enquiry for fear of self-incrimination in a criminal investigation
 - Derivative misconduct
 - Collective misconduct – doctrine of common purpose and the parity principle
 - Integrity of medical certificates
- 11h05 – 11h20:
- Dismissal for operational requirements
- Contractual claim to severance pay in excess of the statutory minimum
 - Requirement of conciliation before permitting a challenge to s189A
 - The test to be applied to determine whether a retrenchment subsequent to a merger is causally linked to the merger and therefore prohibited
- 11h20 – 11h30:
- Automatically unfair dismissals and unfair labour practices
- Normal or agreed-upon retirement age
 - Benefits disputes
- 11h30 – 12h15:
- Collective bargaining, trade unions/employers' organisations, collective agreements and organisational rights
- Authority of a branch official to act on behalf of a political party
 - Ostensible authority of an official to act on behalf of a trade union or employers' organisation
 - Failure by a political party whose members are involved in unlawful protest action to investigate matters and take appropriate action against such members
 - The interpretation and legal nature of a trade union constitution and action taken in terms of such constitution
 - The circumstances under which there is not an obligation on a minority trade union to pay agency fees
 - The grounds upon which a collective agreement may be set aside
 - The granting of organisational rights to a minority union or a coalition of minority unions that do not meet the threshold requirement





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- 12h15 – 12h30: Industrial action
- Unlawful conduct arising during the course of a protected strike
 - Dismissal of union members during an unprotected strike for misconduct committed
- 12h30 – 13h00: A change in service providers, insolvency of an employer, restraint of trade agreements and vicarious liability
- Lapsing of a service provider contract and granting the contract to another service provider
 - The insolvency of an old employer and the applicability of s197 of the LRA
 - Determining the reasonableness of the period of the restraint as well as the territory involved
 - The rights of the courts to cut down or restrict a period of restraint or geographical limitation imposed
 - A contractual clause excluding vicarious liability of an employer covering intentional conduct, such as theft, by an employer's employees
- 13h00 – 13h40:
- Lunch
 - Delegates posing questions on the SALLR WhatsApp group
- 13h40 – 14h10: SALLR panel of experts providing answers to burning questions raised on the SALLR WhatsApp group (041 3734322)
- 14h10 – 14h50: Powers and functions of the CCMA, bargaining councils, labour and labour appeal courts
- The process to be adopted when an arbitrator recuses himself/herself
 - The power of the governing body of the CCMA to withdraw accreditation granted to a bargaining council
 - Certain bargaining councils lacking jurisdiction to tax an employee's bill of costs and, furthermore, lacking jurisdiction to award attorney and client costs
 - The circumstances under which the labour court is empowered to make a settlement agreement an order of court, when exercising its discretion according to law and fairness
 - The lack of jurisdiction of the labour court to review the decision of an employer in the public sector, not made by the employer but by an employee who was the chairperson of a disciplinary enquiry
- 14h50 – 15h00: Basic conditions of Employment Act 75 of 1997
- Entitlement to commission after the employment relationship ended
- 15h00 – 15h05: Pension Funds Act 24 of 1956
- The prohibition to apply retrospectively an amended rule





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- 15h05 – 15h10: Employment Equity Act 55 of 1998
- Harassment at the workplace
- 15h10 – 15h20: National Minimum Wage Act 9 of 2018
- A contractual bonus to be included in the calculation of an employee's hourly rate, as well as provident fund contributions paid by an employer on behalf of an employee
- 15h20 – 15h30: Local Government: Municipal Systems Act 32 of 2000
- The extension of the prohibition applicable to employees, from holding political office in a political party, to municipal managers and managers accountable to them declared unconstitutional and the consequences of same
- 15h30 – 15h45: • Legislative summary covering the period 1 July 2023 to 30 June 2024
- 15h45 – 16h00: • Closing remarks

