

## Part-time employment

Until recently, our labour legislation has made no reference to part-time employment. Much publicity has been given to the amendments to the Labour Relations Act (LRA) insofar as they relate to labour brokers and fixed term contracts. What has gone almost unnoticed is the introduction of the protection of employees that are employed on a part-time basis.

### What is a part-time employee?

A part-time employee is defined as “*an employee who is remunerated wholly or partly by reference to the time that the employee works and who works less hours than a comparable full-time employee*”. This would include employees who work only a few hours per day or only a few days a week. Part-time employees could, and often are, permanently employed.

### Protections

In the past part-time employees who felt that they were unfairly treated compared to full-time employees, could refer a dispute about ‘benefits’ to the CCMA under the ‘unfair labour practices’ provisions of the LRA. However, such referrals have been rather uncommon – probably because of uncertainty by employees as to what their rights entail.

The new Section 198C has given more substance to the protection of part-time employees. Taking into account the working hours of a part-time employee, an employer must –

- (a) treat a part-time employee on the whole not less favourably than a comparable full-time employee who does the same or similar work, unless there is a justifiable reason for different treatment; and
- (b) provide a part-time employee with access to training and skills development that is on the whole not less favourable than that which is provided to a comparable full-time employee.

A ‘comparable full-time’ employee is one that performs the same or similar work for the same employer in the same workplace as the part-time employee (or, if there is no such person in the same workplace, a comparable full-time employee in another workplace).

In addition to the above, an employer must provide a part-time employee with the same access to opportunities to apply for vacancies as it provides to full-time employees.

### Exceptions

Not all employers and employees are affected by the provisions of Section 198C. (For more details click on the link at the bottom of the page.)



### What is a justifiable reason?

It is understandable that a part-time employee should receive less pay than a full-time employee simply because they work less hours. But, if one were to disregard for the reduced working time, there are not many other justifications for treating a part-time employee less favourably than a comparable full-time employee. Some 'justifiable reasons' are listed in the Act. (For more details click on the link at the bottom of the page.)

### Disputes

Any part-time employee, who is in dispute with an employer about less favourable treatment, may refer the dispute to the CCMA or bargaining council with jurisdiction. The dispute may be referred within 6 months after the relevant act or omission. If the dispute remains unresolved after the conciliation phase, the CCMA has the jurisdiction to arbitrate the matter.

For the full article click here: <http://www.labourwise.co.za/labour-articles/part-time-employment-clarified>

*Article written by Jan Truter of Labourwise*

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