

Short Notes on:

## **THE NEW EARNINGS THRESHOLD: HOW THE INCREASE WILL IMPACT EMPLOYERS AND EMPLOYEES**

### ***Introduction***

Most employees are blissfully unaware of the new “earnings thresholds” upliftment and how it can positively affect them. The threshold is determined on gross annual income or anything that forms part of their benefits package. It is used as a benchmark to see if an employee would benefit from the assistance given by the Basic Conditions of Employment Act 1997 (the “BCEA”), Labour Relations Act, 1995 (the “LRA”) as well as the Employment Equity Act, 1998 (the “EEA”).

“Earnings” can be explained as an Employee’s regular annual remuneration before deducting income tax, pension fund contributions, medical aid contributions and other similar contributions.

If an employee falls below the “earnings threshold” they can benefit from payment for overtime worked on weekends as well as public holidays.

### ***The Unpacking Of The Basic Conditions Of Employment Act And The New Threshold:***

The Minister of Employment and Labour has set out and published the new earnings threshold as stated in the BCEA

Based on the newest publication of the earnings threshold, dated 1 March 2021, the BCEA earnings threshold increased to R 211 596.30 (previously R 205 433.30) per annum. Employees that earn less than the prescribed threshold are entitled to the protections provided by the BCEA. Protection includes monetary claims for overtime worked, without being paid according to the LRA; fixed term contract- privileges for employees who worked less than 3 months at a company; protection against unfair discrimination as well as temporary employment services.

In addition to the BCEA, sections 198A, 198B, 198C and 198D of the LRA regulate a-typical forms of employment, such as labour broking, limited-duration contracts of employment and part-time employees.

Such employees benefit from protection such as:

- a labour broker can be deemed as an employee even though the work is a temporary service, and they can essentially reap all the benefits that the LRA provides; and
- An employee employed for a limited period of longer than three months is deemed to be used indefinitely should there be no justifiable reason for fixing the contract term.

### **Conclusion**

These benefits will come into effect from 1 March 2021 and will result in more Employees being able to claim overtime work, especially if the employee work over the weekend.

This increase in the earnings threshold came as a sense of relief as it is long overdue and appreciated by workers who just missed the earnings threshold in the past seven years.

Contact SchoemanLaw Inc for all your Labour needs.