

## TERMINOLOGY

*The duration / length of the employment contract should not be confused with the number of hours an employee works in a given week / month.*

### DURATION OF EMPLOYMENT CONTRACT

- **Permanent (indefinite) employment**

- Employment terminates upon dismissal / resignation / retirement / mutual agreement.
- Can be employed on a full time or part time basis.
- Can contain a probationary clause.

- **Fixed term / Limited duration / Temporary employment**

*(Exceptions to statutory obligations apply to some employers/employees – refer s198B(2) LRA)*

- Contract expires automatically upon (1) a fixed date or (2) occurrence as agreed in the contract.
- The reason for fixing the contract for a limited period should be stated in the written contract (this is compulsory if the employee earns below the earnings threshold).
- Can be on full time or part-time basis.
- The position must be temporary for true operational reasons and not a permanent position disguised as a temporary one for probationary purposes. In terms of the LRA, a temporary employee (earning below the earnings threshold) may be deemed to be permanent after 3 months, unless the employer can show that it is truly temporary work or can otherwise justify the temporary nature of the appointment. (Refer to the Labour Relations Act s198B(4) for examples of such justification.)
- Similar terms and conditions of employment to that of permanent employees must apply to temporary employees (under the earnings threshold) after 3 months.
- Where a reasonable expectation of continued employment on the part of the employee can be proved despite the wording of the contract, invoking the expiry clause and terminating the contract may then constitute dismissal.

## HOURS OF WORK PER WEEK/MONTH

- **Full time**

- 45 ordinary hours per week (or the number of hours full time staff of the employer usually work).
- Can be permanent or limited duration/temporary.

- **Part time / Flexi-time**

- Works fewer than 45 (or the hours applicable to a comparable full-time employee of the employer) hours per week.
- Scheduling / rostering of time is possible (flexibility).
- Contract can be of permanent or limited duration.
- In terms of the LRA amendments, part-time employees (with some exceptions as stipulated) should on the whole not be treated less favourably than a comparable full-time employee, including having access to training and development.

*[Note that in terms of section 9A of the BCEA (January 2019), an **employee who works fewer than 4 hours on a day**, must be paid for at least 4 hours. Excluded from this provision are employees earning above the earnings threshold or employees who work fewer than 24 hours a month for the employer.]*

- **Casual employee**

- Only if working less than 24 hours per month for the employer.

Duration of employment	Hours of work
<b>Permanent</b> / indefinite until retirement or other termination	<b>Full time</b> employment – 45 hours p.w. (or less if so determined by the employer)
<b>Fixed term</b> / limited duration / temporary (Limited circumstances allowed by law – especially for lower-earning employees*) <u>NOT</u> used for probation.	<b>Part-time</b> employment – working fewer hours p.w. or p.m. than the full-time staff.  Can be anything between 25 hours per <u>month</u> and the fulltime hours for the month.  Can work the part-time hours in various ways, e.g. mornings only / only on certain days of the week / only some hours on some days / etc.
	<b>Casual</b> employee – may not work more than 24 hours per <u>month</u> for the employer