



42nd
SALLR seminars
2026

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**SOUTH AFRICAN LABOUR LAW REPORTS' 42ND ANNUAL SEMINAR
PROGRAMME**

July to September 2026

- 07h00 – 08h00: Registration
- Tea, coffee and welcoming snacks
- 08h00 – 08h05: Opening address
- 08h05 – 08h10:
- SALLR published judgments, awards and rulings during the past 12 months
 - SALLR seminar source material

- 08h10 – 08h30:
- SALLR earnings guidelines: corporate, formal, informal and non-corporate sectors
 - Stats SA earnings by level of education and career stage
- 08h30 – 09h15: SALLR delegates requested topics
- The conversion from a contractually obligatory adversarial disciplinary hearing to a so-called paper hearing
 - The latest developments regarding an employee's duty to obey a lawful and reasonable instruction
 - Employees making false statements during a disciplinary investigation
 - The different types of trade union constitutions catering for membership
 - The failure to appoint an applicant for a job
- 09h15 – 10h00: First special feature topic: plant level and sectoral level collective agreements developments
- The limited jurisdiction of the CCMA and bargaining councils to only deal with interpretation and application disputes regarding such collective agreements
 - The time period within which such disputes must be referred, as well as the condonation complexities relating to same
 - Factors to be taken into account to determine whether a party to a collective agreement operated within its mandate and the consequences of the failure in this regard
 - The absence of a rational connection between a collective agreement and its stated objectives trigger a legality review
 - The role to be played by the majoritarian principle when determining whether or not an extension of a collective agreement concluded at bargaining council is legally permitted
 - In an attempt to have a collective agreement set aside, the extent to which reliance may be placed on both PAJA and a legality review
 - Public powers can be exercised not only by the state and public authorities but also by private actors, such as employers operating in the private sector – the implication of this approach when determining whether or not a collective agreement should be set aside on review
 - The approach that the conclusion of a plant level agreement, in terms of s23(1)(d) of the LRA (binding on employees not being members of a registered trade union), is reviewable but limited to the principle of legality
 - The application of the approach adopted by the labour appeal court that a plant level collective bargaining agreement, or a sectoral level collective bargaining agreement, is not a contract, but rather a piece of legislation

- 10h00 – 10h30: Tea, coffee and refreshments break
- Delegates posting questions on the *SALLR* WhatsApp group
- 10h30 – 11h00: Second special feature topic: statutory amendments
- The implementation of the Code of Good Practice on Dismissal, effective 4 September 2025
 - LRA Amendment Bill 2025 (published on 26 February 2026)
 - Labour Law Amendment Bill 2025 (also published on 26 February 2026) and dealing with the following:
 - BCEA proposed amendments (especially dealing with paternity leave)
 - EEA proposed amendments
 - UIA proposed amendments
- 11h00 – 11h20: Third special feature topic: powers and functions of arbitrating commissioners again under the spotlight
- Users of the CCMA and bargaining councils are entitled to the right to a fair hearing guaranteed in s34 of the Constitution. Arbitrators, on the other hand, execute their duties subject to s138(1) and s138(7) of the LRA. They must deal with the substantial merits of a dispute with the minimum of legal formalities, determine the dispute fairly and quickly and issue awards with brief reasons within 14 days of the conclusion of the arbitration proceedings.
- The check and balance approach in respect of arbitrators entails, *inter alia*, the following:
- a review of the arbitration award into s145 of the LRA (i.e. Ngcobo J's gross irregularity approach in the *Sidumo* minority judgment)
 - a review based on the majority judgment in *Sidumo* (i.e. the grounds of review as contained in s145 of the LRA are suffused with the constitutional requirement of fairness)
 - a challenge directly based on s34 of the Constitution (e.g. the *Gaylard* (CC) approach)
- The gross irregularity review approach is indeed a process-related approach – this led to a body of judgments where awards were set aside on the sole ground that commissioners failed to apply their minds to the material facts or issues without the reasonableness of the outcome of the award being assessed.
- Recently, in *Vodacom*, the CC held that an integral component of the s34 right to a fair hearing is the duty of proper consideration. Commissioning arbitrators could, in future, be subject to this test which entails, essentially, a resurrection of the process-related review approach but at a higher threshold.

- 11h20 – 11h30: Contractual rights and obligations
- Unilateral, premature termination of a fixed-term contract by an employer entitles the employee to accept such repudiation and claim damages
- 11h30 – 11h40: Individual misconduct
- Unauthorised, irregular or fruitless and wasteful expenditure to Local Government: Municipal Finance Management Act 56 of 2003
 - Application of the aforesaid approach to the private sector
 - The requirement of destruction of the relevant trust relationship and the interrelationship of this requirement with the requirement of a sensible operational response to risk management
 - Polygraph test results still being regarded as not valid and reliable
 - The employer's entitlement to request a pension fund to withhold an employee's benefits on the basis of the dishonest conduct of the employee having caused the employer losses
- 11h40 – 11h55: Collective misconduct developments
- Derivative misconduct
 - Common purpose
- 11h55 – 12h05: Section 186(2)(a) of the LRA: benefits dispute
- The rejection of the approach that an unfair labour practice can be continuous and, therefore, condonation is not required outside the 90-day period of referral
- 12h05 – 12h15: Review of the decision of an exemption appeal authority of a bargaining council
- 12h15 – 12h20: The functions of the Registrar of Labour Relations when considering the registration of a trade union (as well as the amendments to a registered trade union's constitution) – equally applicable to employers' organisations
- 12h20 – 12h25: Organisational rights
- Arbitration of organisational rights disputes and jurisdictional prerequisites to prohibit strike action in this regard
- 12h25 – 13h00: Restraint of trade developments
- 13h00 – 13h40:
- Lunch
 - Delegates posing questions on the SALLR WhatsApp group

- 13h40 – 14h00: *SALLR* panel of experts providing answers to burning questions raised on the *SALLR* WhatsApp group
- 14h00 – 14h30: Powers and functions of the CCMA and bargaining councils
- Extra-territorial jurisdiction
 - Consequences of the recusal of an arbitrating commissioner
 - The consequences of a reinstatement order and the entitlement to back pay
- 14h30 – 15h15: Powers and functions of the labour court
- The lack of jurisdiction of the labour court to generally interfere in uncompleted disciplinary proceedings
 - The failure to comply with court orders and being in contempt of court
 - The jurisdiction to hear and determine an appeal to s35 of the OHS Act
 - Restraining a vexatious litigant
 - Archiving in terms of the new rules 7(2) and 69 of the Labour Court Rules
 - Security to suspend arbitration awards pending the outcome of review applications: the operation of s145(7) and s145(8) of the LRA in both the private and public sectors
 - The lack of jurisdiction of the labour court to award compensation for losses incurred during protected strike action
- 15h15 – 15h45: EEA
- Affirmative action
- 15h45 – 15h50: Labour legislation and policy considerations – 1 August 2025 to 31 May 2026
- 15h50 – 16h00: • Closing remarks