

Contracts of Employment (Written Particulars of Employment)

Dated: 06/10/2025 by Aleksander Rost



What Act Requires a Contract? The BCEA 75 of 1997 (Section 29) clearly states what the minimum conditions of employment a contract must contain. This does not mean it should only contain these conditions, we will have a look at this now.

Why is a contract needed? Both parties (Employer and Employee) must agree to the terms and conditions of employment and know what is expected of both. This will assist in dispute resolutions should any disputes about employment conditions arise or the employees refuse to comply with the agreement. It will also serve as proof of the agreement with regards to any claims of unfair employment conditions made by the employee.

It will for instance be difficult to implement other conditions of employment later on if no provision was made for it in the contract of employment for instance, say that the employee is employed in a capacity that deals with highly confidential information and trade secrets within your company and the employee divulge these related information to competitors, what recourse could you take against this employee if you did not have a clause such as a confidentiality clause or restrained of trade and how would you take disciplinary actions against this employee misconduct if they were not aware of these conditions? It's therefore very important to have these agreements before the employee starts with his/her employment.



Contracts needs to be drafted in terms of what Legislations (Acts, Collective Agreements and Sectorial Determinations) require it to contain and also any other clauses related to the core functions of the business, it is therefore necessary that each business must have a unique contract of employment as well as related to the positions that the employee is employed for, you cannot have a general contract for every

capacity and level of occupation within the company.

The contract would also have to be revised whenever any changes in terms of employment conditions occurs, this may happen when Legislations change, when the employee is promoted or demoted, transferred to different locations or departments or when the business is sold.

As you can see the Contract can range from basic "Letter of appointment" to a highly complexed document, all of them would have to be constructed with precision, describes its purpose and must be transparent in terms of conditions and all must be agreed upon.

Remember that the employment agreement is voluntary on both sides, the employee chooses to render services to and who the employer will hire in accordance to who will best deliver these services to the company. It is for this reason that the employee must offer his/her services subject to the control of the employer and the employer rewards the employee for these services.

What Types of Contracts does a company

normally have? Yes any business would normally have different types of employment within any period of time during normal business functions, we have listed them below with brief descriptions of each and their importance:



Letter of Appointment – A letter of appointment is a brief document that lists the very basic terms and conditions of employment, we can normally use this agreement with temp employees that we might employ for a very short period of time (a month) or a certain short term project an expiry date must be included or the project this was used for, generally it is not a preferred agreement method used, it is always best to have a part time or fixed term agreement, should you make regular use of the employees services.

Part Time Contract – A part time agreement is used for temp employees for short periods of time such as periods where extra help is needed for instance during Holiday seasons, High sales periods or during special events or high production periods. This type of agreement must state the purpose thereof as mentioned before.

Fixed Term Contract – A fixed term agreement may be used for a new project the company is undergoing or for predicted busy periods, this may be drafted in accordance to a specific time period or for the duration of the project, if it is in terms of a time period it must be remembered that an expiry date should be included in this agreement and for a project it must be noted that when it is completed this agreement will be terminated, no notice period is documented in this agreement but it will always be good practice to notify the employee at least a week before the expected expiration date.

Probationary Contract – The employer may choose to use a probationary agreement in order to see if the hired employee will be able to perform the duties appointed for in accordance to the standards established by the company. When we choose this agreement we must take the following into consideration “Labour Relations Act 66 of 1995 - Schedule 8 (Code of Good Practice on Dismissals) sub-section 8 “PROBATION”.

Permanent Contract – The employer may choose to enter into a permanent agreement with the employee from the start of employment or after the completion of a probationary period agreed upon, this agreement will not have a completion date and will only be terminated by either party due to various reasons and only after having received appropriate notice in terms of Legislation. This type of agreement may have extra clause contained within it that allow certain benefits to permanent employees that the previous agreements did not contain.

NOTE !!! It must be remembered that the agreement must have a Heading as per the different types of agreements to make it clear as to what is agreed upon. All agreements must be compliant with Legislations and may not be agreed with less favourable conditions unless provided by Law and must be agreed upon by both parties by signing it and having a copy issued to each party.



What other documents can accompany the

Contract? The contract may have a clause in that states that the company may from time to time and as the need for it arise implement policies and procedures that will form part of the employment agreement but once again

this must first be agreed upon by both parties, hence the importance of signing the agreement before the employment begins.

The documents that must accompany the contract is a comprehensive job description and specifications (detailing the duties and specifications the employee will be expected to perform), the disciplinary code and procedure (the rules of the company and actions taken for breaking them) and any other documents that Legislations requires of the employer.

Who can assist with these services??

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