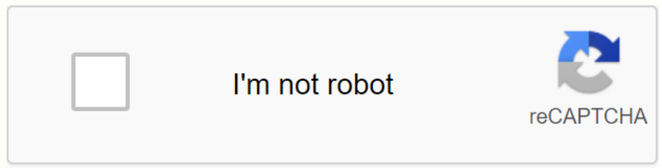

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Section 189 labour relations act pdf

Economists predict that the Coronavirus (COVID-19) pandemic will lead to habits on an unprecedented scale on the back of an already weak economy. It is likely that trade unions will pursue the consultation process provided for in sections 189 and 189A when faced with proposals to establish themselves. Article 189A(13) Paragraph 189A(13) Paragraph 189A(13) is relevant in that regard. It gives unions seeking to challenge the fairness of the consultation process through an important measure. It states that if the employer does not follow a fair procedure, the union can apply to the Labour Court, ordering the application: to force the employer to follow a fair procedure; detain the employer or limit the dismissal of the worker before following a fair procedure; order the employer to return the employee until he has followed the fair procedure; to compensate the employee if the indication within the above mentioned time limit is inappropriate. How this Chapter should be applied will be further examined. The recent judgment of the Labour Court in SA Communication Union and Others v Telkom SA SOC Ltd and Others is one of the most recent judgments in interpreting and applying 189A. In the present case, Telkom reported that, in accordance with Article 189(3), it considered tanning more than 3 000 employees in two stages. At its first consultation meeting, Telkom proposed that employees offer voluntary severance packages (PPPs) and voluntary early retirement packages (VERPs). This was seen as a tool to avoid habits. This was opposed by two unions, the South African Communications Union and the Communication Workers' Union, which works as a union. They argued that the issue of severance packages could not have been raised so early during the consultation process and that the proposal of the OP and ODA could only be used as an alternative to self-assessments after consultation on the new employment structures proposed by Telkom. This argument was based on Section 189(3). It provides that an employer intending to pursue his habits must inform the trade unions and/or the workers with whom he intends to consult in writing, invite them to consult and provide them with all relevant information on various issues. This includes: the reasons for the proposed redundancies; the alternatives considered by the employer before proposing redundancies and the reasons why each of these alternatives was rejected; the number of workers likely to be affected and the categories of work in which they work; a proposed method for selecting which workers to lay off; the period or period within which the dismissal may take effect; and the proposed severance grant. The Alliance argued that the LRA requires consultation in accordance with the above procedure. As the consultation on habits has not yet been held, it was not consultation on severance packages. It also argued that it was inappropriate to consult on severance payments until workers knew what the new employment structure would be and whether they would be implemented. This made it difficult to know whether or not to apply for SGI/RP. When the impasse was reached on this issue, Telkom decided to propose the EDP and the WERPs, despite the Alliance's opposition. As a result, the Alliance has led to an application under Article 189A(13) in order to withdraw the proposal for voluntary packages and to participate in further consultations on these packages. The Labour Court dismissed the action. The court rejected that conclusion, which rejected the argument that the consultation process was to examine the sequence referred to in Article 189(3), arguing that it was an overly restrictive approach. The Court also recognised that there was an obligation to consult on severance payments, but that the absence of consultation on the matter could be attributed to the Alliance's request for consultation on other issues before consulting on severance payments. Although unions may have had logic, this does not mean that the consultation process should be suspended if no agreement is reached on this issue. Interestingly, the court also upheld previous decisions of the Labour Court describing the approach that the court should take in the exercise of its supervisory jurisdiction under Article 189(13) of the LRA, i.e. that intervention in the consultation process should be limited to serious cases of non-compliance with fair proceedings. This was done as follows: [33] In the light of the foregoing, the question arises: should the court intervene in the type of deadlock reached between the parties in the proceedings? In principle, before the court intervened, it must be satisfied that the party's employer acted in such a way as to substantially impede or impede the consultation of good faith, in accordance with the intentions of Article 189. In this case, Telkom was bothered. The Alliance has flooded the barriers with proper consultation by setting preconditions for consultation on CSPs and CSPs. Reviewed by ENSafrica Employment Department Executive Consultant Peter le Roux. The disruption of COVID-19, linked to the constant national incarnation of business and the already existing local economic downturn, is forcing many employers to take their habits seriously. He mainly has human resources practitioners to advise and lead employee advice for business restructuring. Sometimes there is also a legal basis under the 1995 Review of the consultation notice published in Article 189(3) of the Employment Relations Act (LRA). In these difficult and extraordinary times, the habits and root causes of these are not protected from accordance with Section 189/189A of the LRA. Director Imraan Mahomed, Leader Employment/Labour Law,Lawtons Africa, LexisNexis South Africa[Durban, 11 May 2020] When lawyers are invited to review the article 189(3), there are a number of well-known questions relating to the root causes of restructuring requested and analysed. Is it really necessary, because the labour courts have historically taken the view that the notification of consultation and procedural compliance following the notification is not a check box? So, is the nit-picking project 189 (3) notice overkill or business critical? The companies were highly assessed by the Constitutional Court in November 2018. The redundancies due to operational requirements continued for six years until November 2012. The only reason for the Woolworths Article 189(3) report, which discussed the habit, is that the Company must be able to employ employees who can be used flexibly. During the consultation, the union agreed that its members would work in such flexible hours and days. When this was achieved, the Constitutional Court and the lower courts found that this meant that there was no need for habits anymore. The consultation process was due to end. The staff concerned then had to be employed under flexible contractual terms. Obviously, this is happening as a matter of law and had to complete the consultation. However, Woolworths argued that the court should read the Article 189(3) notice holistically, which would show that there were additional reasons for the dispute, i.e. fairness and cost-effectiveness. The Court rejected that argument because the report referred to in Article 189(3) emphasised the need to employ people who can work under flexible working conditions. This would improve business costs and operational efficiency. The report therefore showed that the only reason for the habits was the need for flexibility, and the benefits of this flexibility are higher costs and efficiency, rather than the fact that they were intended to be for independent reasons. The end result is therefore that Woolworths was unable to prove in its report that the reason for the dismissal was correct. The fact that the LRA has satisfied the court's claim for a fair reason for dismissal is a return to the present. Despite a long period of dismissal, the court granted retroactive reinstating. The old tip sounds true again – rush slowly with section 189(3) notice and be ready to cross ts and point forward be prepared to face the consequences. Employers should be careful, because when this pandemic stands up, and it will not, unscrupulous redundancies will not occur, and employers will be able to seek to restore unfair returns when the courts are ready to return with a return for several years. Woolies is just the latest example, as there are other employers who also had to take their medications. It is better for employers to be safe in this area as well.