

Employment Effects in the Temporary Employment Services (TES) Sector: Post- Regulatory Amendment Effects

A Briefing Note

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I. Introduction

Section 198 of the Labour Relations Amendment Act (2014) makes provision for temporary employment service (TES) employees who earn below a specified threshold (currently R205 433.30 per annum) to be deemed indefinite employees after a continuous three-month period of employment. There has been much concern about the impact of this amendment on employment levels in the aggregate, and on employment levels within the TES sector.

This short briefing note examines the employment effects resulting from the amendment process passed through Parliament on 4 March 2014, signed by the President on 2 September 2014 – and coming into effect from January 2015. At the outset, it must be noted that theoretically it is possible that some of the shifts in employment may not be directly attributable to the Amendment itself. For instance, an industry may be experiencing a negative or positive trade, output or other shock at the time of the Amendment. Nevertheless, the results presented below are, we suggest, strongly indicative of the early, short-run employment effects of the Amendment.

The data in turn used is from a survey conducted by the Confederation of Associations in the Private Employment Sector (CAPES). The survey covers a cross-section of industries across four provinces (Mpumalanga, Gauteng, Western Cape, and KwaZulu Natal). The data has of course been verified and cleaned by the research team and remains a very reliable industry-based source of data. We would suggest that the longer run impact of the amendment on labour market outcomes in the TES sector, be undertaken with recourse in addition to a combination of pre- and post-amendment labour force survey and industry data.

II. Employment Effects by Industry and Province

Table I shows the shifts in employment for labour brokers approximately one year after the Amendment came into effect. It is important to emphasise that the results in this briefing note only analyse TES industry association data with respect to the post-amendment employment adjustments recorded. In one sense, this is an impact analysis, 12 months after the change in the regulatory regime with respect to the employment of TES workers.

In Table I below, the total number of employees on site refers to the total number of TES employees working in the different industries before the Amendment came into effect, as at March/April 2014. From Table I it is clear that our data universe is just over 6900 employees. Within the latter, it is also evident that the overwhelming majority, 5389 or 78%

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of all these TES employees, were subject to a positive or negative change in their conditions of employment in the approximately one-year period immediately following the LRA amendment process. In this sense, we would (despite the caution noted above) argue that a significant share of this impact on employees can and should be ascribed to the relevant recent changes to the LRA. The remaining columns of Table 1 detail the number of employees who were *positively affected* (employment made permanent or fixed contract), *negatively affected* (employment terminated or retrenched), and those who were *unaffected* in the wake of the Amendment. Tables 2 and 3 in turn attempt to collate and summarise by industry, the negative on the one hand and the positive & neutral employment effects on the other hand.

It is evident in Table 1 that the response to the new legislation varied across industry. The four most responsive firms, in terms of employment changes, in absolute terms have been in the Metal & Engineering, Hospitality, Government and Manufacturing industries. One simple measure of the relative responsiveness of the industry to the amendment is to determine the share of the total workers affected, relative to the share of workers in the total sample². Should this ratio exceed 1, it indicates an industry (or at least a set of firms within an industry) which is more prone to responding to the amendments process.

Table 1: TES Employment Shifts Post-LRA Amendment by Industry, March/April 2015

Industry	Total		Temporary Workers				No Change
	On Site	Affected	Retrenched	Terminated	Permnt.	Direct Contract	No Change
Metal and Engineering	1017	764	248	516	10	0	253
Construction	250	100	0	85	15	0	150
FMCG	350	347	102	75	120	50	3
Retail	169	113	0	0	113	0	56
Banking	643	464	30	250	111	73	179
Hospitality/Leisure	572	572	0	100	272	200	0
Government	795	793	0	793	0	0	2
Power and Utilities	690	314	0	232	82	0	376
Waste Management	130	96	0	0	96	0	34
Manufacturing	913	913	0	713	150	50	0
Healthcare	3	3	0	3	0	0	0
Motor & Transport	192	50	0	0	35	15	142
White Collar	83	83	0	83	0	0	0
Insurance	70	12	0	2	0	10	58
Education	120	120	0	100	0	20	0
Park homes	76	48	0	24	24	0	28
Elite Fibre	26	33	0	0	0	33	0
Other (Unspecified)	814	564	0	160	404	0	250
Total	6913	5389	380	3136	1432	451	1524

Source: CAPES 2015

² This is easily calculated as $[(A_i/A_t)/S_i/S_t]$ where A_i is the share of affected workers in sector i , A_t is the total number of affected workers; S_i is the share of total employment and S_t is the total on-site employees. Should the ratio exceed 1, then the sector is relatively more prone to responding to the amendments.

Notes: Missing information for TES internal staff industry.
In some sectors, new staff may have been employed after amendment.

Our estimates indicate that, based on these data the FMCG, Hospitality, Government, Manufacturing, White Collar and Education sectors have been *relatively more responsive* to the promulgation of the amendment than other industries. Put differently, although almost all sectors here have responded in some way to the law, those which have responded at a scale in excess of the share of total employment in the sample – reveal a particular sensitivity to the changes in the law. It is important to note however, that in addition, a number of industries, have not significantly altered their employment mix in response to the regulatory changes. These industries include Motor & Transport, Insurance and Waste Management where there were few affected employees.

Finally, for the case of the Elite Fibres industry, the total number of workers in the affected column exceeds the initial number of workers because more workers were employed after the Amendment. This is a unique result, since no other industry experienced gains in employment over the period. Although these numbers are small for the Elite Fibres industry, they do suggest that ascribing all changes in employment provided below to the amendment process solely, would not strictly speaking – be a correct assumption.

Ila: Negative, Neutral and Positive Employment Effects

In terms of the negative employment effects in the post-Amendment period, it is evident from Table 2 that the majority of TES workers who were negatively affected, had their temporary employment relationship terminated. Just over half of all TES employees were affected negatively in the post-Amendment period, with 45.4 and 5.5 percent of all TES employees having their employment relationship either terminated or being forced to undergo retrenchment, respectively. Put differently, our key result here shows that just over half of the firms in the sample responded to the amendment by terminating or retrenching workers. Job destruction was thus the key response in the wake of the regulatory changes.

Table 2: Negative Employment Effects Post-LRA Amendment, by Industry, March/April 2015

Industry	Total Employees	Retrenched		Terminated		Total Neg. affected	
		No.	%	No.	%	No.	%
Metal and Engineering	1017	248	24.39	516	50.74	764	75.13
Construction	250	0	0	85	34	85	34.00
FMCG	350	102	29.14	75	21.43	177	50.57
Retail	169	0	0	0	0	0	0.00
Banking	643	30	4.67	250	38.88	280	43.55
Hospitality/Leisure	572	0	0	100	17.48	100	17.48
Government	795	0	0	793	99.75	793	99.75
Power and Utilities	690	0	0	232	33.62	232	33.62
Waste Management	130	0	0	0	0	0	0.00
Manufacturing	913	0	0	713	78.09	713	78.09
Healthcare	3	0	0	3	100	3	100.00
Motor & Transport	192	0	0	0	0	0	0.00
White Collar	83	0	0	83	100	83	100.00
Insurance	70	0	0	2	2.86	2	2.86
Education	120	0	0	100	83.33	100	83.33
Park homes	76	0	0	24	31.58	24	31.58
Elite Fibre	26	0	0	0	0	0	0.00
Other (Unspecified)	814	0	0	160	19.66	160	0.20
Total	6913	380	5.5	3136	45.36	3516	50.86

Source: CAPES 2015

Although, the dominant firm response aggregated across all industries was negative, this response varies within industries. In terms of the share of total employment effects within industry, the negative affect was highest in Metal & Engineering, Public Sector, Manufacturing, White Collar and Education industries³. The response, albeit in share terms, are instructive here: They suggest that for example in government, essentially all workers previously employed through third-party contractors, have lost their jobs. In the remaining sectors noted, over three-quarters of workers lost their jobs through a retrenchment or termination. It is also important to consider employment effects in absolute terms. Hence, we find large and significant employment effects in the Metal & Engineering, Banking, Public Sector and Manufacturing industries, which shed 764, 280, 793, and 713 jobs, respectively.

³ We ignore the health care result purely give the very small sample size observed.

Table 3 below illustrates the positive or neutral employment responses to the regulatory change. The headline result is that 27% of all workers in the sample were positively affected by the law change. This constituted close to 1900 employees. This share of workers, were positively affected after the amendment either through being employed permanently or being taken on under direct contract by the employer.

Table 3: Positive and Neutral Effects Post-LRA Amendment by Industry March/April 2015

Industry	Total # of Employees on Site	Permanent		Contract		Total Positively Affected		% of Employees unaffected
		No.	%	No.	%	No.	%	
Metal and Engineering	1017	10	.98	0	0	10	0.98	24.88
Construction	250	15	6	0	0	15	6.00	60
FMCG	350	120	34.29	50	14.29	170	48.58	0.86
Retail	169	113	66.86	0	0	113	66.86	33.14
Banking	643	111	17.26	73	11.35	184	28.61	27.84
Hospitality/Leisure	572	272	47.55	200	34.97	472	82.52	0
Government/Municipality/Public Sector	795	0	0	0	0	0	0.00	0.2
Power and Utilities	690	82	11.88	0	0	82	11.88	54.49
Waste Management	130	96	73.85	0	0	96	73.85	26.15
Manufacturing	913	150	16.43	50	5.48	200	21.91	0
Healthcare	3	0	0	0	0	0	0.00	0
Motor & Transport	192	35	18.23	15	7.81	50	26.04	73.96
White Collar	83	0	0	0	0	0	0.00	0
Insurance	70	0	0	10	14.29	10	14.29	82.86
Education	120	0	0	20	16.67	20	16.67	0
Park homes	76	24	31.58	0	0	24	31.58	36.84
Elite Fibre	26	0	0	33	126.92	33	126.92	0
Other (Unspecified)	814	404	49.63	0	0	404	49.63	30.71
Total	6913	1432	20.71	451	6.52	1883	27.00	22.05

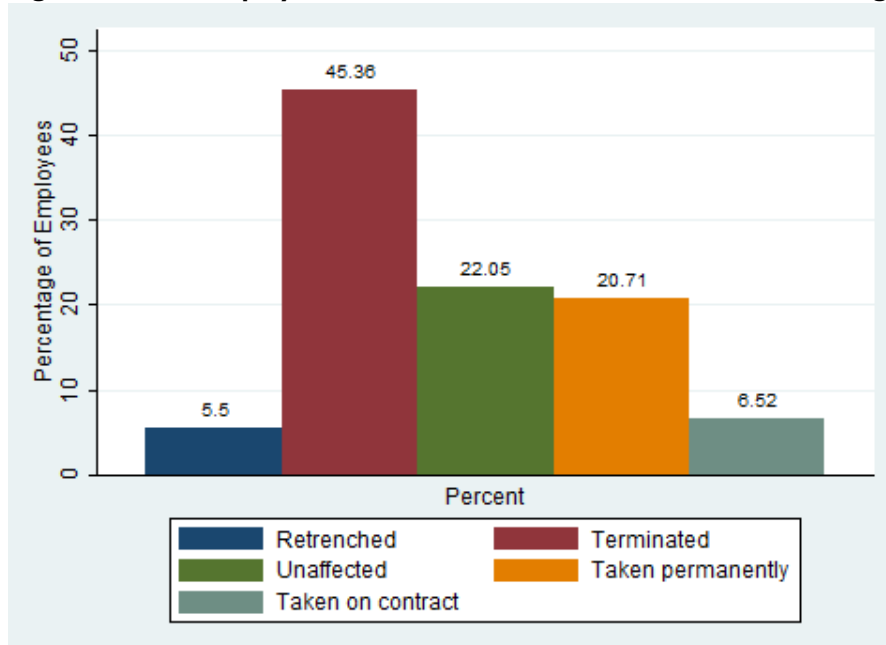
Source: CAPES 2015

In the Insurance, Motor & Transport, and Power & Utilities industries, the majority of employees were not affected at all after the amendment came into effect. As part of the ongoing process of attempting to understand employer responses to the regulatory shifts, it would be important to assess the nature of the factors driving this difference between 'employment retaining' and 'employment attrition' industries and firms.

In trying though to distil the above tabulations into one summarised trends graph, we provide below the total share-based distribution of labour market outcomes one year after the ratification of the LRA amendments process. The graph is visually striking. It suggests,

as referred to above, the bias towards retrenchments and terminations in firms' responses to the law change.

Figure 1: Total Employment Effects Post-LRA Amendment, Percentage Share, March/April 2015



Source: CAPES 2015

Conversely, positive firm responses in the form of taking on temporary employees permanently or on contract, accounted for 22.05 and 20.71 percent of the employment effects, respectively. Another normalised manner in which to think about the impact of the LRA amendment is that one-year after the introduction of the law change, for every 100 TES employees, approximately 50 of these workers lost their jobs. The job destroying nature of the amendment is thus clearly evident.

IIb: Employment Effects By Province

Table 4 details the employment effects by province. It must be noted that the sample was restricted to four Provinces – Gauteng, KwaZulu Natal, Western Cape and Mpumalanga. Furthermore, the response rates by Province vary, with the majority of responses in the sample emanating from Gauteng while a very small number of responses coming from Mpumalanga.

Table 4: Employment Shift Post-Amendment by Province, March/April 2015

Province	Total # Employees on Site	Total # Employees Affected	# Temps Retrenched	# Temps Terminated	# Temps taken perm by client	# Temps taken on contract direct by client	Employees unaffected
Gauteng	5217	3753	278	2090	1184	201	1464
KZN	904	902	0	862	25	15	2
Western Cape	892	889	102	217	320	250	3
Mpumalanga	94	49	0	29	20	0	45
Total	7107	5593	380	3198	1549	466	1514

Source: CAPES 2015

Notes: Missing information for Nationwide Geographical Category

Most of the employees in the sample are based in Gauteng. Some firms provided provincial information but not industry information.

Examining employment shifts by province in Table 5, it is clear that KwaZulu Natal experienced the highest number of employee terminations across the four provinces. In fact, 862 of the 904 (or 95%) of all temporary employees prior to the Amendment had their employment positions terminated. In Gauteng, although the share of negatively affected employees is significantly lower than that in KwaZulu Natal, the total number of employees is substantial – 2090 employees of the 5217 temporary employees either had their position terminated or were retrenched.

Table 5: Negative Effects Post-Amendment, by Province, March/April 2015

Province	Total # of Employees on Site	Retrenched Temps		Terminated Temps		Total Neg affected	
		No.	%	No.	%	No.	%
Gauteng	5217	278	5.33	2090	40.06	2368	45.39
KZN	904	0	0	862	95.35	862	95.35
Western Cape	892	102	11.43	217	24.33	319	35.76
Mpumalanga	94	0	0	29	30.85	29	30.85
Total	7107	380	5.35	3198	44.99	3578	50.34

Source: CAPES 2015

In terms of positive employment effects, it is evident in Table 6 that temporary employees in the Western Cape were most likely to be either employed permanently (35.87%) or employed under contract (28.03%) after the Amendment. In Gauteng and Mpumalanga, approximately one in every four (26.55%) and one in every five (21.28%) of the temporary employees in these Provinces experienced a positive employment outcome, respectively.

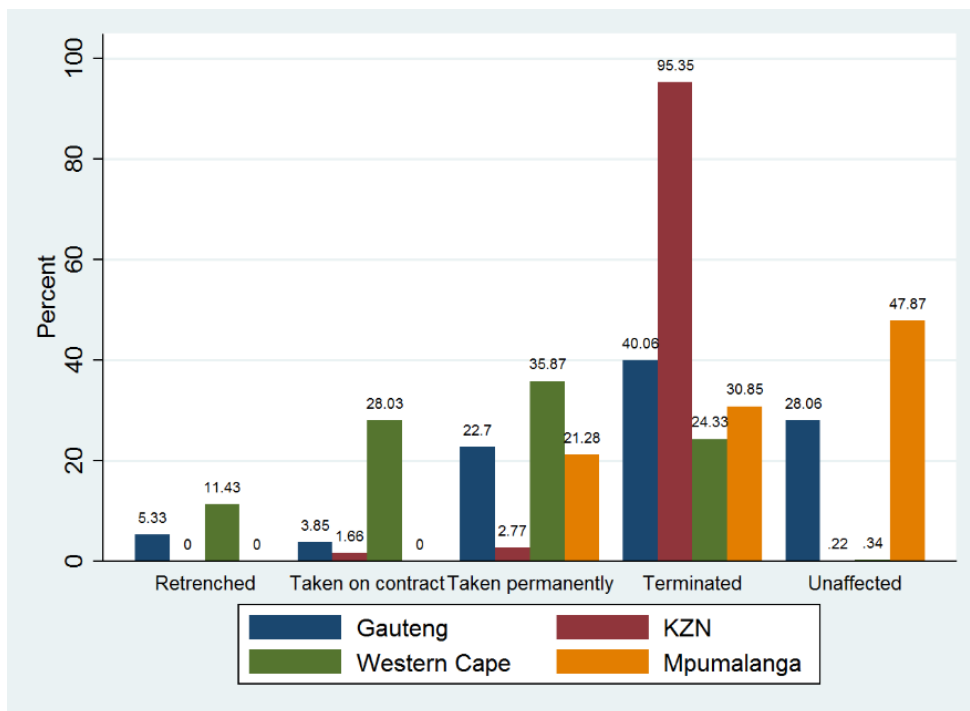
Table 6: Positive and Neutral Effects after amendment by Province: as at March/April 2015

Province	Total # of Employees on Site	Temps taken perm		Temps taken on contract		Total Positively affected		Percentage of Temps unaffected
		No.	%	No.	%	No.	%	
Gauteng	5217	1184	22.7	201	3.85	1385	26.55	28.06
KZN	904	25	2.77	15	1.66	40	4.43	0.22
Western Cape	892	320	35.87	250	28.03	570	63.9	0.34
Mpumalanga	94	20	21.28	0	0	20	21.28	47.87
Total	7107	1549	21.8	466	6.56	2015	28.35	21.3

Source: CAPES 2015

Figure 2 provides a useful depiction of the employment effects by Province in terms of a share-based distribution. It is evident that the dominant firm response to the Amendment in KwaZulu Natal was for firms to terminate the jobs of TES employees.

Figure 2: Distribution of Effects of Amendment by Province – March/April 2015



Source: CAPES 2015

Temporary employees were more likely to experience a positive employment responses in the Western Cape. Looking at South Africa’s largest provincial economy, Gauteng, one in every 5 temporary employees were employed permanently post the Amendment, while 2 in every 5 were terminated.

IIc: Simple and Weighted Employment Effects: Sector and Province Estimates

In Tables 8 and 9, we present recalibrated employment effects from the regulatory shift, but categorised in this instance by the more standardised SIC method. A similar picture to that revealed in the industry results in Tables 1 to 3 is evident. The reordered data reveal that negative employment effects were greatest in the Manufacturing, Finance, Real Estate and Business services and Public and Social Services industries.

Table 8: Negative Effects Post-LRA Amendment by SIC Industry, March/April 2015

SIC Industry ⁴	Total # of	Retrenched Temps		Terminated Temps		Total Neg affected	
	Employees on Site	No.	%	No.	%	No.	%
Manufacturing	2148	248	11.55	1229	57.22	1477	68.77
Construction	250	0	0	85	34	85	34
Wholesale and Retail Trade	519	102	19.65	75	14.45	177	34.1
Finance, Real Estate and Business services	875	30	3.43	362	41.37	392	44.8
Tourism	572	0	0	100	17.48	100	17.48
Public and Social Services	915	0	0	893	97.6	893	97.6
Electricity, Gas and Water	690	0	0	232	33.62	232	33.62
Waste and Recycling	130	0	0	0	0	0	0
Other	814	0	0	160	19.66	160	19.66
Total	6913	380	5.5	3136	45.36	3516	50.86

Source: CAPES 2015

Hence, we find that job losses were almost 100% in the public sector (constituting some 900 employees) – whilst in Manufacturing close to 1500 workers lost their jobs.

In terms of neutral or positive employment effects, the data suggests that this was largest in absolute terms in Wholesale and Retail Trade, Tourism and Waste & Recycling industries.

⁴ SIC-categorized sectors at the 3-digit level

Table 9: Positive and Neutral Effects Post-LRA Amendment by SIC Industry, March/April 2015

SIC Industry	Total # of Employee s on Site	Temps taken perm		Temps taken on contract		Total Positively affected		Percentage of Temps unaffected
		No.	%	No.	%	No.	%	
Manufacturing	2148	195	9.08	98	4.56	293	13.64	18.06
Construction	250	15	6	0	0	15	6	60
Wholesale and Retail Trade	519	233	44.8 9	50	9.63	283	54.53	11.37
Finance, Real Estate and Business services	875	135	15.4 3	83	9.49	218	24.91	30.29
Tourism	572	272	47.5 5	200	34.97	472	82.52	0
Public and Social Services	915	0	0	20	2.19	20	22.19	0.22
Electricity, Gas and Water	690	82	11.8 8	0	0	82	11.88	54.49
Waste and Recycling	130	96	73.8 5	0	0	96	73.85	26.15
Other	814	404	49.6 3	0	0	404	49.63	30.71
Total	6913	143 2	20.7 1	451	6.52	1883	27.24	22.05

Source: CAPES 2015

In absolute terms the tourism industry, as well as manufacturing and a collection of undefined firms, were able to retain the largest number of workers.

In Tables 10 and 11, we weight the employment shifts according to the number of employees in the industry. For instance, 5 workers being terminated in an industry with fewer workers (e.g. construction) carries more weight than 5 workers being terminated in a massive industry such as manufacturing. The results in Table 10, more or less confirming the unweighted numbers, indicate that weighted negative employment effects were greatest in the Manufacturing, Finance, Real Estate and Business services, and Public and Social Services industries.

Table 10: Employment Shifts Post-Amendment by SIC Industry – March/April 2015, Weighted Shares

SIC Industry	Affect ed	Retrenc hed	Termina ted	Perman ent	Direct contract	Unaffec ted
Manufacturing	25.46	3.59	17.78	2.82	1.42	5.61
Construction	1.45	0.00	1.23	0.22	0.00	2.17
Wholesale and Retail Trade	6.65	1.48	1.08	3.37	0.72	0.85
Finance, Real Estate and Business services	8.82	0.43	5.24	1.95	1.20	3.83
Tourism	8.27	0.00	1.45	3.93	2.89	0.00
Public and Social Services	13.21	0.00	12.92	0.00	0.29	0.03
Electricity, Gas and Water	4.54	0.00	3.36	1.19	0.00	5.44
Waste and Recycling	1.39	0.00	0.00	1.39	0.00	0.49
Other	8.16	0.00	2.31	5.84	0.00	3.62
Total	77.95	5.50	45.36	20.71	6.52	22.05

Source: CAPES 2015

Positive employment effects were greatest in the Wholesale and Retail Trade, and Tourism industries.

In terms of weighted employment effects by Province, negative employment effects were greatest in Gauteng and KwaZulu Natal, while positive employment effects were greatest in Gauteng and the Western Cape.

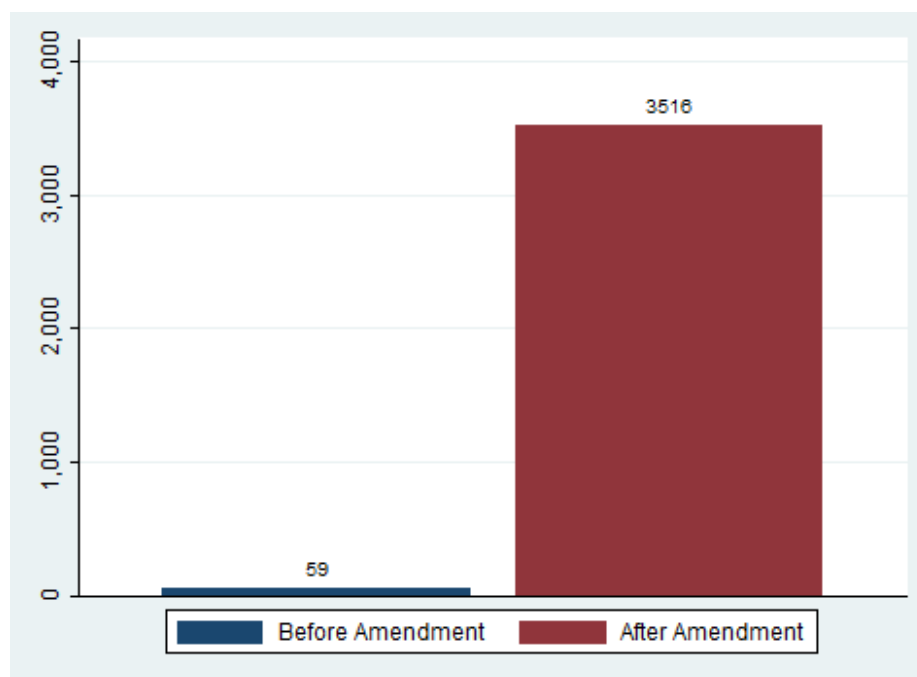
Table 10: Employment Shifts Post-Amendment by Province – March/April 2015, Weighted Shares

Province	Weighted share of Affected	Weighted share of Retrenched	Weighted share of Terminated	Weighted share of Taken permanent	Weighted share of taken on direct contract	Weighted share of Unaffected
Gauteng	52.81	3.91	29.41	16.66	2.83	20.60
KZN	12.69	0.00	12.13	0.35	0.21	0.03
Western Cape	12.51	1.43	3.05	4.50	3.52	0.04
Mpumalanga	0.69	0.00	0.41	0.28	0.00	0.63
Total	71.94	5.35	45	21.8	6.56	21.3

Source: CAPES 2015

Figure 3 is an attempt to provide a first, very rough assessment of the nature of job losses in the pre-amendment period – relative to job losses in the post-amendment period. In doing so, we use the Labour Force Survey data for the period March – June 2014. Hence, we estimate the percentage change in employment over this period in 2014 – in order to represent the number of jobs lost in the TES sector, prior to the change in the regulatory regime. The employment number for TES workers represents fully compliant TES workers⁵. Before the amendment, our data shows, there were 59 job losses between quarters 1 and 2 of 2014. After the amendment the TES sector experienced 3516 job losses.

Figure 3: Pre-amendment and Post-amendment Employment Shifts



Source: QLFS⁶ 2014, quarters 1 and 2 and CAPES 2015

Given that we are only comparing TES employees, we would expect the sector to face the same set of economic conditions over the two time periods. The fact then that the only exogenous change in this period, was the amendment process, would suggest that any shift in employment levels would be a function of this regulatory shift. The idea that we had close to a 60-fold increase in employment losses in the industry, compared to a year before – is strongly indicative of the early impact on employment retention and possible longer-run impact on job creation that this amendment has had.

III. Conclusion

This basic briefing note has investigated the employment effects arising from the impact of the amendment to *Section 198 of The Labour Relations Act*, which enforces the permanent

⁵ Fully compliant means that the worker contributes towards UIF, has access to paid leave (and also paid sick leave) and receives paid maternity/paternity leave.

⁶ These are unweighted numbers.

employment of temporary workers who have been employed continuously for more than 3 months and earn below a specified threshold.

Ultimately, the above suggests that the primary response by firms to the Amendment was negative, with approximately half of the temporary employees in the sample having their jobs either terminated or being retrenched. Only one in every four temporary employees were made permanent following the Amendment. A substantial number of temporary employees were unaffected. Negative effects were felt most strongly in Manufacturing, Finance, Real Estate and Business services, and Public and Social Services industries and the Gauteng and KwaZulu Natal Provinces. Positive employment effects were felt most strongly in the Wholesale and Retail Trade, and Tourism industries and the Gauteng and Western Cape Provinces.

Notably when comparing this data to the previous year - using the Quarterly Labour Force Survey data - our results confirm a sharp rise in job losses in the immediate aftermath of the regulatory amendment. The data provides early, short-run evidence that the most common response amongst firms facing the regulatory change, has been to retrench workers or to prematurely terminate contracts of employment. As one examines the longer run effects of this law, the concern amongst policy makers must surely be the extent to which additional possible employment creation has been reduced given this regulatory intervention.