Amendments to the Employment Act, 2001: What it means for employers

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Amendments to the Employment Act, 2001 ("the Act") came into force on 5th April 2017 which, among other things, impose a number of new obligations on employers with respect to the redundancy, dismissal and lay-off of employees.

Employers contemplating a redundancy exercise are now required to consult with the Minister of Labour prior to the dismissals, and to notify the Minister of the reasons for the dismissals, the number and category of employees to be affected, and the period over which the dismissals will be carried out. Such information must also be provided to any relevant trade union. Employers also have a duty to consult with the relevant trade union concerning measures to mitigate or avoid the redundancy, the method of selecting employees for redundancy, the redundancy procedures to be employed, and measures to assist employees with finding alternative employment.

If an employer offers to renew the employee's contract or re-engage the employee under a new contract, the employee has a right to choose to receive the statutory redundancy payment instead of accepting the offer.

An employee who was made redundant must be given priority for rehiring if, within 12 months from the date of the redundancy, there is a need to recruit employees to carry out the same purposes for which he was previously employed.

Temporary lay-offs will not be treated as interrupting the continuous employment of an employee. However, where an employee has been laid off for a continuous period of twelve weeks or more, the layoff will be deemed a dismissal because of redundancy.

Employers are expressly prohibited from dismissing or threatening to dismiss an employee in order to engage him as an independent contractor to perform substantially the same work he was doing previously. Where an employer engages an employee as an independent contractor within 12 months of the employee having been made redundant, the new contract will be deemed a contract of service unless its terms are more favourable to the employee than his previous employment contract.

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