

2nd Generation Outsourcing

Aviation Union of South Africa obo Barnes & Others / SAA Pty Ltd & Others

The Labour Appeal Court held that s197 of the LRA applies to second generation outsourcing.

Q: What is second generation outsourcing?

A: A Company cancels an initial outsourcing agreement only to conclude another with a 3rd party.

Q: Must a second generation outsourcing contract comply with s 197 of the LRA?

A: Yes

Q: What is s 197 of the LRA about?

A: When an old employer transfers its business as a going concern to a new employer, the employees are automatically transferred on same or similar terms and conditions of employment.

Please be advised that a blunder on the part of the new or old employer in terms of a section 197 transfer could result in an award against both employers of two years' compensation!

