

From Regulatory Amendments to Employment Shifts: The Temporary Employment Services Sector in South Africa

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1. Introduction

The Temporary Employment Services (TES) sector has grown rapidly in recent years and has been a key node of job creation for the South African economy. Hence, the data shows that over the past two decades average annual employment growth rate in the sector stands at about 8.7 percent. Crucially, this rate of employment expansion, exceeded the national job creation rate over this period as well as the employment growth rate of every main sector of the economy. The TES sector in terms of its economic value-add has further been estimated to constitute about 9 percent of South Africa's GDP. This highlights the importance of the TES sector both for job creation and as a contributor to growth and economic value-add in the domestic economy. In addition, the evidence suggests that vulnerable workers find employment in the TES sector, namely youth and individuals who reside in households that are close to national poverty lines¹ (Bhorat, Cassim, & Yu, 2014).

This growth of the TES sector has also coincided with a growing debate around decent work and labour regulation, and with arguments that the TES sector may provide a way for employers to obviate existing labour laws. Within this environment, a recent regulatory amendment has been passed aiming to regulate the TES sector by limiting the legal duration and scope of temporary employment. Whilst preliminary analyses using firm-response data did indicate large losses for TES workers in a number of sectors (Bhorat, Magadla, & Steenkamp, 2015), it is possible that such job losses emanated from factors not related to the regulatory amendment. A recent econometric analysis of the sector, which aimed at isolating the impact of the legal amendment, did not find a substantial impact (Bhorat, Stanwix, & Lilenstein, 2018). However, this study suffered from sample size issues since the rotating panel of the LMDS was utilised. This current paper however is less ambitious. Its central aim is to provide an empirically updated assessment of the growth of the TES sector, within the context of the recent regulatory amendments².

This paper proceeds as follows: Section two provides an overview of the relevant literature, Section three discusses the data which is used and Section four provides the descriptive results. Section six concludes.

2. The TES Labour Market: Early Evidence

Bhorat, Cassim, and Magadla (2015) found that dividing TES firms into three compliance categories resulted in a more nuanced and accurate analysis of the sector than when treating the sector as homogenous. The authors examined three indicators of compliance: Whether employers contribute to the Unemployment Insurance Fund (UIF) on behalf of the employee, whether employees are able to take sick leave, and whether employees are able to take paid annual leave. The authors then defined fully compliant (FC) firms as those which provide all three benefits, partially compliant (PC) firms as those which provide one or two of the above, and non-compliant (NC) firms as those which provided none of the three benefits. When the

¹ The authors used the three poverty lines proposed by Woolard & Leibbrandt (2006).

² Early qualitative evidence on the firm responses to the amendment is provided in SBP (2017)

TES sector is divided in this way the results suggest that TES workers in FC firms receive comparable wages to non-TES workers, although the conditional estimates suggest that wages for TES workers in FC firms are slightly lower (by 9 percent) than for comparable employees in non-TES firms. However, the wage gap increases substantially as compliance levels decrease: TES workers in PC firms earned 15 percent less than non-TES workers and TES workers in NC firms earned 46 percent less than non-TES workers. The suggested result thus was not that TES workers were paying low wages, but rather that partially compliant, and indeed non-compliant, firms were the real source of the low wage problem in the sector. Put differently, it is compliance with regulation, rather than the TES sector *per se*, which remains the source of the low wage problem within the South African labour market.

Despite this heterogeneity in the TES sector, the recent changes to the Labour Relations Amendment Act (s198) applies to all TES employees earning below a threshold of R205 433.30 per annum, and attempts to regulate the industry in a bid to ostensibly achieve fair compensation and job security for all of these temporary workers. The amendment stipulates that a temporary employee employed for more than three months is entitled to the same wage and non-wage benefits as a permanent employee, unless there exists justifiable reason for acting otherwise³. The amendment officially came into effect on 1 January 2015 and employers were given three months to comply with the law.

The purpose of the amendment was to curtail abusive practices through narrowing the benefits associated with temporary employment. However, the unintended consequences of the amendment may include job shedding by firms, which in turn may result in welfare losses at the household level. Since it is only in PC and NC firms that TES workers are at a relative disadvantage to begin with, it may be that the law has little effect on improving the employment position of these TES workers, if their employers continue to violate the law. Similarly, the remaining firms employing TES workers in full compliance with the law could potentially be invariant to the change in the law, given the possibility that the total cost of labour may remain unchanged with the amendment process. Hence it is possible that the law could have a marginal effect on the welfare of the employed. In terms of employment effects then PC and NC firms would have no specific incentive to lay off employees in the post-law period since they are not complying with the law *ex ante*. Similarly, FC firms may willingly take employees on permanently since total labour costs remain unchanged. The aggregate effect in the latter hypothetical case then, is that the law has no disemployment effects. On the other hand however, firms may change their compliance behaviour with the new laws, and may therefore choose to become more compliant. Even partial compliance at the margin, would increase overall labour costs for PC and NC firms, with the real possibility then of employment losses. With the same reasoning then, it is possible that the amendment will have raised the medium- to long-run costs of employment for FC firms as well. In such a scenario then, job losses will emanate, given that fully compliant firms are no longer able to offer the same or an increasing number of TES employees to firms.

3. Data

The data used is the South African Quarterly Labour Force Survey (QLFS). The QLFS surveys individuals aged 15-64 on their labour market activities. It is conducted by Statistics South Africa (Stats SA) and uses a household-based sample which is constructed according to the

³ For more on the specifics of this amendment visit <http://www.labournet.com/hr-news-articles-south-africa/246-newsflash-labour-relations-act-amendments>

latest census. The latter thus serves as the basis for sampling stratification. The QLFS is conducted four times each year using a rotating panel of respondents. Each of these surveys represents one cross-section on the state of employment in South Africa. This analysis employs 19 cross-sections, encompassing the QLFS 2013:1 to the QLFS 2017:3. All cross-sections are pooled and treated as repeated cross-sections over time.

The QLFS captures information about employment in different sectors by asking respondents to select which category they identify with out of a number of possible options. Unfortunately, there is no specific category for “Temporary Employment Services” as an employment sector in the QLFS. However, under the category “Financial and Business Services” there is a subsection of “Business Not Elsewhere Classified” (Business N.E.C.) which is defined as follows:

“labour recruitment and provision of staff; activities of employment agencies and recruiting organisations; hiring out of workers (labour broking activities; disinfecting and exterminating activities in buildings; Investigation and security activities; building and industrial plant activities; photographic activities; packaging activities; other business activities; credit rating agency activities; debt collecting; agency activities; stenographic, duplicating, addressing, mailing list or similar activities; other business activities”

Bhorat *et al.*, (2014) argue that, despite the detailed list that makes up the Business N.E.C, the dominant activities which make up the list are employment agency, labour brokering, and security services employment activities. The authors also look into which occupation groups make up the Business N.E.C. sector. The three main occupation groups were found to be “Protective Service Workers Not Elsewhere Classified”, “Helpers and Cleaners”, and “Farmhand and Labourers”. All three of these would clearly fall under the TES sector rather than one of the other sectors in the list that makes up the Business N.E.C. category. Hence whilst the Business N.E.C. category is not an exact representation of the TES sector (i.e. it includes more than just TES workers), it may be a good approximation of the TES sector, if slightly over-representative. This data cannot be used to differentiate individuals any further, and so this slightly over representative category is the best fit available. However, it must be noted that although this category includes mainly TES workers, not all TES workers would classify themselves under this category. For example, workers employed by a labour broker to work in mining or construction are likely to respond that they work in mining or construction, rather than in the financial and businesses sector. Hence the Business N.E.C. category is actually likely to underrepresent the total TES sector.

4. Methodological Approach

In the observation of the descriptive results given in this paper it is useful to differentiate between two amendment phases. Firstly, a ‘No Expectations’ phase is defined as differentiating ‘before’ and ‘after’ periods based on the date that the amendment came into effect (January 2015). The *Before* period in this phase are all quarters before 2015:1, and the *After* period in this phase are all periods after 2015:1. Secondly, given that the law was already passed by the National Assembly and submitted to the President in August 2013, we think it likely that employers would have begun to react to the then imminent amendment as early as 2013:3. Therefore, an ‘expectations’ phase is defined as differentiating pre-amendment and post-amendment periods based on this date (August 2013). The pre-amendment period in this

phase thus includes quarters prior to 2013:3, and the post-amendment period in this phase includes quarters after 2013:3. The figures below illustrate this concept.

Figure 1 below displays the ‘no expectations’ phase, with the before (pre) and after (post) periods defined exactly and only by the date that the amendment came into effect. In contrast, the ‘expectations’ phase in Figure 2 shows that the before and after periods are defined by the date that the amendment was passed by the National Assembly – August 2013.

Figure 1. The No-Expectations Model

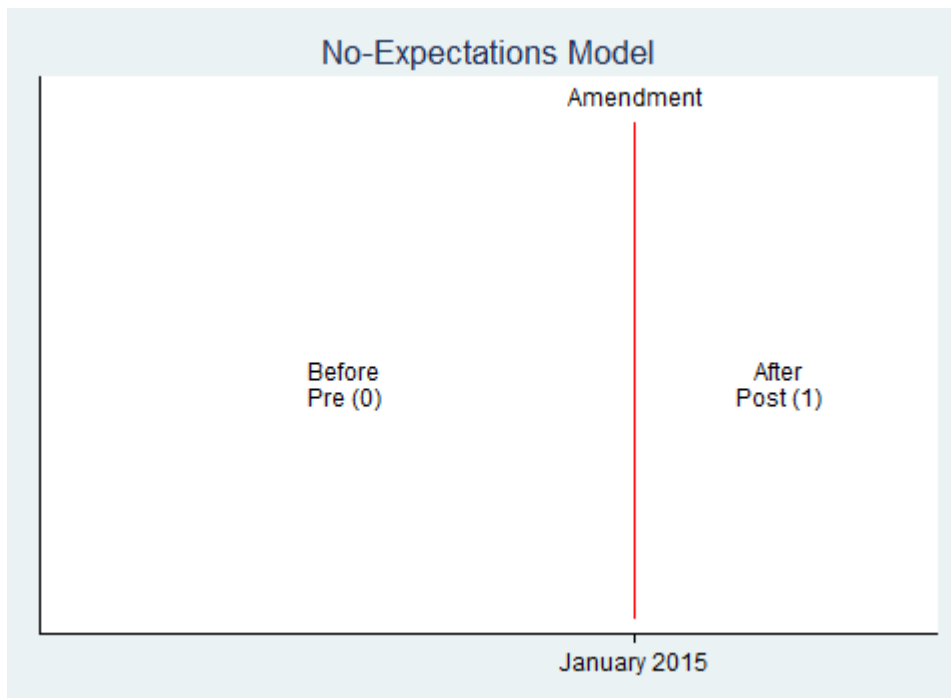
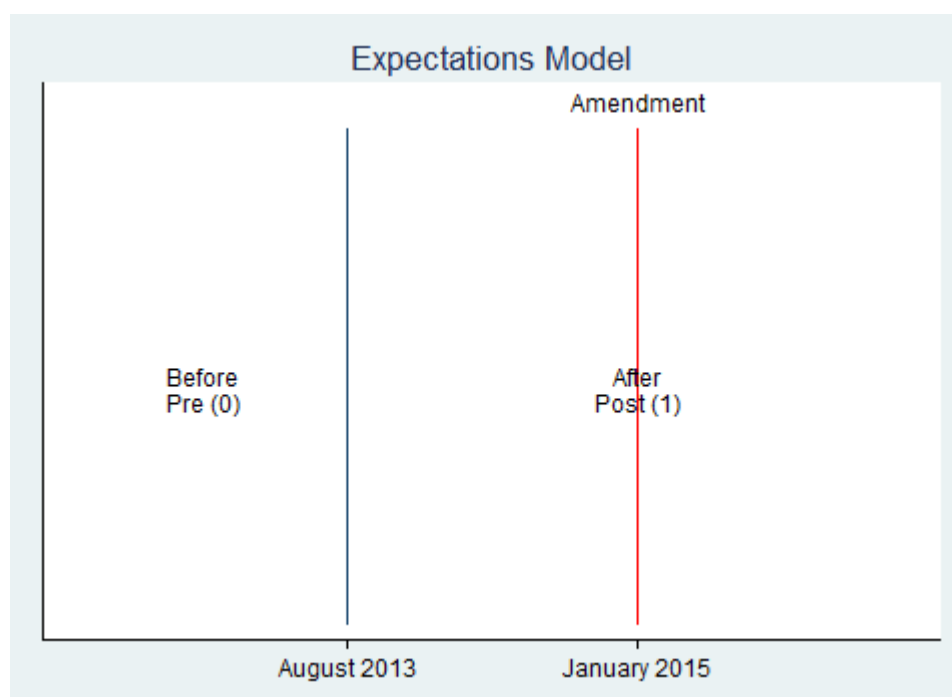


Figure 2. The Expectations Model



This differentiation attempts, as should be clear, to incorporate the notion that employers had information and thus formed expectations, prior to the formal passing of the amendment – and hence may have responded earlier than January 2015 in terms of their TES employment practices.

4.1 The Matching Procedure: Propensity Score Matching

Using a matched comparison group (matching) is necessary if we are to compare like with like. We construct our comparison group using Propensity Score Matching (PSM) techniques. PSM essentially uses characteristics of the sample to determine the likelihood that an individual is in the TES group based on his or her personal characteristics, such as race and gender. Those non-TES workers that have the highest likelihood of being in the TES sector (i.e. those that are most similar to TES workers) will make up the comparison group.

Since we are treating this data as pooled cross-sections over time – and therefore not following individuals along a panel – it is not possible to match TES workers to non-TES workers in the first time period and follow these two groups. Instead, TES workers must be matched to non-TES workers separately for each time period. Since non-TES workers are matched to TES workers in all periods, the characteristics of the non-TES workers that best suit the TES workers in a particular period may fluctuate. Given that we expect TES employment to decline, we also expect that the composition of TES employment may change due to the legal amendment. This, combined with the fact that we are matching our controls to our TES workers separately for each time period, means that our comparison group may also be affected by the change in the amendment to some degree.

Individuals were matched based on six characteristics: age, gender, education level, race, marital status, and province residing in.

Table 1. Characteristics of TES and Non-TES Workers - Unmatched Samples

Variable	TES	Unmatched Non-TES
Age	36***	39***
Female	0.41***	0.48***
Education (years)	11.44***	10.94***
Married	0.40***	0.46***
Race: African	0.81***	0.77***
Race: Coloured	0.11***	0.13***
Race: Indian/Asian	0.02***	0.02***
Race: White	0.06***	0.08***
Skill level: Skilled	0.11***	0.16***
Skill level: Semi-skilled	0.59***	0.48***
Skill level: Unskilled	0.31***	0.36***
Province: Western Cape	0.18***	0.14***
Province: Eastern Cape	0.08***	0.10***
Province: Northern Cape	0.03***	0.05***
Province: Free State	0.05***	0.07***
Province: KwaZulu-Natal	0.17***	0.15***
Province: North West	0.05***	0.07***
Province: Gauteng	0.30***	0.22***
Province: Mpumalanga	0.08***	0.09***
Province: Limpopo	0.06***	0.09***

Source: QLFS 2012Q1 – QLFS 2016Q2

Notes:

1. N = 523 576
2. p<0.1* p<0.05** p<0.01***.

Table 2. Characteristics of TES and Non-TES Workers - Matched Samples with Propensity Score Matching

Variable	TES	Matched Non-TES
Age	36	36
Female	0.41	0.41
Education (years)	11.44*	11.38*
Married	0.40	0.40
Race: African	0.81	0.82
Race: Coloured	0.11	0.11
Race: Indian/Asian	0.02	0.01
Race: White	0.06	0.06
Skill level: Skilled	0.11***	0.14***
Skill level: Semi-skilled	0.59***	0.53***
Skill level: Unskilled	0.31***	0.33***
Province: Western Cape	0.18	0.18
Province: Eastern Cape	0.08	0.08
Province: Northern Cape	0.03	0.03
Province: Free State	0.05	0.05
Province: KwaZulu-Natal	0.17	0.16
Province: North West	0.05	0.05
Province: Gauteng	0.30	0.30
Province: Mpumalanga	0.08	0.08
Province: Limpopo	0.06	0.06

Source: QLFS 2012Q1 – QLFS 2016Q2

Notes:

1. N = 74 846
2. $p < 0.1^*$ $p < 0.05^{**}$ $p < 0.01^{***}$.

Table 1 displays characteristics of TES workers compared to unmatched non-TES workers, while Table 2 displays characteristics of TES workers compared to matched non-TES workers. All differences are statistically significant for the unmatched groups while only education and the skill levels remain significant for the matched groups.

5. Results

5.1 The Regulatory Impact on the TES Sector: A Descriptive Overview

The tables below present the average characteristics of TES (Table 3) and matched non-TES (Table 4) workers by quarter over the pre-amendment and post-amendment periods. Examining Table 4, it can be seen that characteristics of the non-TES sector are erratic in many respects. This variability in the non-TES sector may in part be due to the matching procedure described above, namely the fact that controls were matched to TES workers in each period rather than matched in the first period and followed thereafter. For example, female representation in the non-TES sector jumps from 34 percent in 2015:3 to 50 percent in 2016:1, merely 2 quarters later.

TES workers have experienced somewhat fluctuating rates of employment since 2013. However, amidst a general upward trend, the highest point of unemployment (as coded here by workers in the survey who stipulated what their last sector of employment was) occurs

directly before the amendment came into place (2015:1). At this point, unemployment in the TES sector was around 325 thousand people. Just two periods later, in the third quarter of 2015, unemployment numbers in the TES sector dropped to pre- 2015:1 levels again. However, employment levels were also particularly high in this period which is unexpected. The unemployment rate – which is a better indication of the employment environment – suggests that employment conditions were toughest during 2015:1 and recovered shortly afterwards. There is little indication that 2013:3 was as eventful for TES workers.

The decline in employment that occurred in 2015:1 may reflect a reluctance by employers to hire new TES workers as a reaction to the uncertainty of what the new legislation would mean for businesses employing TES workers. While employers did not fully understand the new law, they may have reacted negatively, in the concern that employing TES workers would become more costly in the future. The subsequent rise in employment that followed in 2015:1 may reflect a realisation by employers that the amendment would, at least based on this short-run data, not possibly be as problematic as initially predicted.

Although the actual number of employed people in the TES sector declines immediately after the amendment came into effect, employment increases steadily during 2016 and continues to grow throughout 2017. It is impossible to say, looking at these numbers only, whether in absence of the amendment the growth in employment in 2016 would have been even higher. The descriptive evidence on employment suggests thus far, that although the TES sector experienced fluctuations in employment pre 2015, employment levels by the end of 2015 were not very different to employment levels seen three years prior (own calculations, QLFS 2012). The long-run trajectory of the sector however remains unclear. There appears to be a stalling of growth rates following the amendment process, and it is only successive years of data which will clarify whether the sector will continue to be a job generator, or in the post-amendment environment, reached some sort of steady state growth in number of jobs generated.

In terms of the individuals being employed, the general characteristics of TES workers have not changed substantially over the period. Age, education level, the proportion of males, the proportion of married individuals, and skill levels have all remained stable. TES workers have shown slight increases in the proportion of African individuals. Like the sectors overall, the number of employees who work in FC firms, PC firms, and NC firms in the TES sector has fluctuated over the period.

In terms of conditions of employment, no significant changes were witnessed in the TES sector for any of these indicators. Hence, although some small fluctuations occur, no lasting structural changes in the conditions of employment can be observed. Although the non-TES sector saw far more fluctuations in these levels than did the TES sector, no clear pattern is observed here either.

Table 3. The TES Labour Market: A Descriptive Overview

	2013Q1	2013Q3	2014Q1	2014Q3	2015Q1	2015Q3	2016Q1	2016Q3	2017Q1	2017Q2
Employed (%)	0.78	0.79	0.81	0.77	0.75	0.78	0.79	0.80	0.78	0.80
Employed (N)	1 118 055	1 151 486	1 151 830	1 093 739	1 305 034	1 159 527	1 261 011	1 362 727	1 385 265	1 459 149
Unemployed (N)	246 390	243 930	221 781	248 244	325 784	258 887	265 863	271 299	299 641	298 046
Age	35	36	36	36	35	36	36	37	37	37
Education	11.39	11.55	11.54	11.82	11.50	11.34	11.56	11.69	11.51	11.80
Female	0.40	0.37	0.40	0.38	0.38	0.37	0.39	0.39	0.39	0.38
African	0.78	0.80	0.80	0.81	0.82	0.84	0.82	0.84	0.83	0.82
Married	0.45	0.43	0.44	0.41	0.43	0.41	0.43	0.43	0.43	0.43
Unskilled	0.32	0.31	0.29	0.28	0.29	0.27	0.26	0.30	0.31	0.29
Skilled	0.13	0.11	0.13	0.14	0.10	0.11	0.11	0.11	0.11	0.11
Union	0.21	0.25	0.24	0.26	0.20	0.22	0.22	0.26	0.27	0.26
FC (%)	0.55	0.55	0.59	0.59	0.54	0.58	0.60	0.59	0.63	0.61
PC (%)	0.36	0.30	0.29	0.29	0.32	0.30	0.27	0.29	0.27	0.31
NC (%)	0.10	0.16	0.12	0.12	0.14	0.13	0.13	0.12	0.11	0.08
Contract	0.91	0.91	0.93	0.93	0.91	0.91	0.91	0.92	0.93	0.93
Pension	0.41	0.41	0.44	0.45	0.41	0.40	0.43	0.48	0.49	0.44
Medical	0.10	0.10	0.11	0.11	0.09	0.09	0.09	0.13	0.13	0.12
Hours	47.73	48.54	48.27	48.91	48.27	49.62	49.87	49.54	48.87	48.67

Source: QLFS 2013Q1 – QLFS 2017Q2

Notes:

1. The period 2013Q1 to 2013Q3 represents the 'before' period for the expectations phase. The period 2013Q4 to 2017Q3 represents the 'after' period for the expectations phase.
2. The period 2013Q1 to 2015Q1 represents the 'before' period for the no-expectations phase. The period 2015Q2 to 2017Q3 represents the 'after' period for the no-expectations phase.

Table 4. The non-TES Labour Market: A Descriptive Overview

	2013Q1	2013Q3	2014Q1	2014Q3	2015Q1	2015Q3	2016Q1	2016Q3	2017Q1	2017Q2
Employed (%)	0.77	0.87	0.83	0.79	0.81	0.80	0.86	0.74	0.83	0.79
Employed (N)	1 008 899	1 242 853	1 371 365	1 192 462	1 316 421	1 487 421	1 110 961	1 297 959	1 228 074	1 191 004
Unemployed (N)	229 356	163 887	226 504	256 138	255 332	300 918	150 837	338 778	212 201	245 772
Age	36	36	35	35	35	35	36	37	36	37
Education	11.54	12.00	11.61	11.48	11.54	11.21	11.44	11.24	11.64	11.82
Female	0.38	0.43	0.37	0.38	0.36	0.34	0.50	0.36	0.38	0.40
African	0.79	0.81	0.84	0.83	0.86	0.86	0.79	0.78	0.87	0.83
Married	0.43	0.45	0.47	0.37	0.47	0.39	0.40	0.39	0.42	0.38
Unskilled	0.34	0.30	0.28	0.30	0.33	0.32	0.31	0.32	0.32	0.29
Skilled	0.19	0.17	0.16	0.12	0.11	0.14	0.15	0.13	0.14	0.16
Union	0.36	0.31	0.23	0.17	0.25	0.24	0.25	0.22	0.38	0.29
FC (%)	0.52	0.47	0.51	0.49	0.44	0.44	0.42	0.55	0.54	0.45
PC (%)	0.29	0.27	0.21	0.29	0.28	0.23	0.32	0.25	0.21	0.33
NC (%)	0.20	0.24	0.29	0.22	0.29	0.33	0.24	0.20	0.26	0.22
Contract	0.80	0.78	0.72	0.77	0.73	0.68	0.81	0.88	0.75	0.77
Pension	0.58	0.43	0.38	0.39	0.42	0.40	0.35	0.43	0.43	0.49
Medical	0.34	0.28	0.14	0.21	0.22	0.17	0.18	0.22	0.23	0.20
Hours	43.98	41.88	43.47	44.88	44.97	44.63	46.01	43.82	41.81	45.12

Source: QLFS 2013Q1 – QLFS 2017Q2

Notes:

1. The period 2013Q1 to 2013Q3 represents the 'before' period for the expectations phase. The period 2013Q4 to 2017Q3 represents the 'after' period for the expectations phase.
2. The period 2013Q1 to 2015Q1 represents the 'before' period for the no-expectations phase. The period 2015Q2 to 2017Q3 represents the 'after' period for the no-expectations phase.

Figure 3 below displays employment levels for TES workers over the period 2013:1 to 2017:3. Although employment levels look highly unstable, much of this comes from the fact that this graph only displays employment values between 71 and 81 percent. In fact, employment levels only fluctuate between a low of 75 percent and a high of 81 percent.

Figure 3. Employment Trends in the TES Sector, 2013-2017



Source: QLFS 2012Q1 – QLFS 2016Q2

The jobs trough occurs very clearly in 2015:1 and continues into the next quarter, while the high occurs shortly after the law change in 2015:4. Two trends are apparent in the post-amendment period: Firstly, that despite the high employment period in the last quarter of 2015, subsequent quarters have witnessed a decline in the TES employment rate, which in many cases lay below the high pre-amendment level. Secondly, and this remains a key long-run trend to observe: It does appear that TES employment has levelled off. Initial evidence on the basis of the data here would suggest that the TES sector is no longer likely to be a key job generator for first-time work-seekers in the South African labour market. Whilst further data will no doubt be a better test for this hypothesis, there is clear visual and empirical evidence to suggest that the amendment process may have had the effects of stifling long-run employment growth potential of the sector. r

The provisional descriptive evidence suggests the following results: Firstly that the individual characteristics of those hired by TES employers did not change significantly. Secondly, that whilst non-TES employment was fairly volatile – that of TES employment tended to be more stable. Thirdly, the data suggests in the No-Expectations model that employers reduced employment of TES workers as a reaction to the law change, with this reduction reaching its lowest point in 2015:1. Fourthly, following the short-run negative shock to the amendment, employment appears to have recovered swiftly following the law change. a. Crucially, though there is evidence to suggest that the long-run employment potential of the sector may have been curtailed, given the observed flattening of employment rates since the amendment.

6. Conclusion

The above note has attempted to trace the impact of the LRA amendment process on employment in the TES sector, without the use of econometric techniques. Hence, the method and approach utilised here has been purely descriptive, with no attempt at isolating the pure effect of the labour regulatory amendment on the employment of TES workers, nor their conditions of employment.

Despite the caveat though, we suggest two key trends which can be observed, following the amendment process designed to manage the TES sector. Firstly, that despite initial fears, there does seem to have been a reversion to the pre-amendment employment levels. However, we should crucially not discount the social and economic costs associated with the job losses that did occur during the period leading up to the amendment. Secondly, though, there does appear to be a long-run trajectory which on the basis of the available evidence is worrying. This long-run trend appears to be characterised by a stabilisation of TES employment levels – a sort of steady but low or zero growth in employment of TES workers. Ultimately this would suggest that the sector can, and should, no longer be viewed as a node for rapid job creation and a portal for first-time job entrants.

Whilst the LRA amendment passed early in 2015 may thus have had the result of curtailing non-compliant firms within the TES sector in South Africa, it is likely that its longer run consequence may be to have eroded the long-run job creating potential of the industry.

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