

EMPLOYMENT ALERT

IN THIS ISSUE

NEW LABOUR LEGISLATION ON THE CARDS

Parliament's Select Committee on Economic and Business Development has passed a series of Labour Bills. The Bills were initially tabled in Parliament in 2017.

INDUSTRIAL ACTION IN 2017: A ZERO-SUM GAME?

The Department of Labour recently released its Industrial Action Report for 2017. The report provides a useful snapshot of the state of labour relations in the country and the impact of industrial action on workers, business and the economy at large.

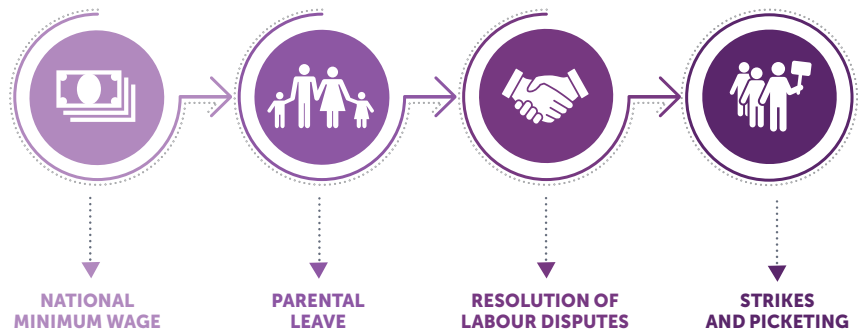
NEW LABOUR LEGISLATION ON THE CARDS

This Bill also introduces different hourly wage rates for agricultural workers (R18 per hour) and domestic workers (R15 per hour).

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Parliament's Select Committee on Economic and Business Development has passed a series of Labour Bills: National Minimum Wage Bill (B31-2017), Basic Conditions of Employment Amendment Bill (B30-2017), Labour Relations Amendment Bill (B32-2017), Labour Laws Amendment Bill (B29-2017). The Bills were initially tabled in Parliament in 2017.

In summary, the bills deal with a broad range of labour issues as follows:



This article discusses these issues by using the names of the relevant Bills as headings.

National Minimum Wage Bill

The National Minimum Wage Bill, together with the Basic Conditions of Employment Amendment Bill, proposes that the national minimum wage is increased as follows:

- R3 900 per month for full-time workers (who work 45 hours per week); or
- R3 500 per month for full-time workers (who work 40 hours per week); or
- R800 per week; or
- R20 per hour.

This Bill also introduces different hourly wage rates for agricultural workers (R18 per hour) and domestic workers (R15 per hour).

The Bill creates and establishes a National Minimum Wage Commission who will be responsible for annually reviewing the national minimum wage. In deciding on the annual adjustment, the following factors will be considered:

- cost of living;
- minimum living levels;
- alleviation of poverty;
- wage differentials and inequality;
- conditions of employment;
- health, safety and welfare of workers;
- employment levels;
- inflation;
- Gross Domestic Product growth;
- state of collective bargaining.

NEW LABOUR LEGISLATION ON THE CARDS

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The Basic Conditions of Employment Amendment Bill will include provisions of the National Minimum Wage Bill.



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Labour Relations Amendment Bill

This Bill makes various changes to the Labour Relations Act 66 of 1995. These changes mainly concern collective bargaining. The Bill provides for the following:

- extension of bargaining council agreements to non-parties by the Minister of Labour;
- extension of funding agreements of bargaining councils;
- picketing through collective agreement or through prescribed picketing rules;
- extension of the meaning of ballot for a strike or lock-out to include a secret vote;
- creation of an advisory arbitration panel.

The advisory arbitration panel has been established to resolve strikes (or lockouts) that are obstinate or violent. The panel may also intervene if there is potential for the strike (or lockout) to cause a local or national crisis. The panel will have the power to investigate the cause and circumstances of the strike (or lockout) and release an advisory arbitration award to assist the parties in resolving the dispute. The panel may only be established if this is directed by the Minister of Labour or Labour Court.

Labour Laws Amendment Bill

The Bill aims to amend the Basic Conditions of Employment Act 75 of 1997. The Bill creates parental leave, adoption leave and commissioning parental leave to employees as follows:

- an employee, who is a parent of a child, is entitled to ten consecutive days of parental leave;



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NEW LABOUR LEGISLATION ON THE CARDS

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The Bills will now be placed before a plenary sitting of the National Council of Provinces.



- an employee, who is an adoptive parent of a child below the age of two, is entitled to:
 - adoption leave of at least ten consecutive weeks; or
 - at least ten consecutive days of parental leave.
- an employee, who is a commissioning parent in a surrogacy agreement, is entitled to:
 - commissioning parental leave of ten consecutive weeks; or
 - at least ten consecutive days of parental leave.

Next stage of legislative process

The Bills will now be placed before a plenary sitting of the National Council of Provinces. If adopted, the Bills will be sent to the President of the Republic of South Africa for final assent and signature. Once signed by the president, the Bills will become law.

Nicholas Preston and Shane Johnson



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INDUSTRIAL ACTION IN 2017: A ZERO-SUM GAME?

This is an indication that there is still insufficient compliance with the requirements of the Labour Relations Act when it comes to strikes.

The public sector experienced more work stoppages than the private sector in 2017.



The Department of Labour recently released its Industrial Action Report for 2017. The report provides a useful snapshot of the state of labour relations in the country and the impact of industrial action on workers, business and the economy at large.

Industrial action in 2017 increased by 8% from 2016. The 2017 strike figures are the highest since the department began monitoring strikes in the country. There were 132 work stoppages in 2017, of those only 52% of were protected strikes. This is an indication that there is still insufficient compliance with the requirements of the Labour Relations Act when it comes to strikes. Most strikes lasted less than 11 working days, but the number of working days lost was up by 1.5% from 2016.

Although strikes related to wages fell by 30% from 2016, this was still the primary reason for strikes in 2017. A sobering reflection of the state of our labour relations is the massive increase from 2016 in strikes related to grievances (up by 249%), socio-economic and political conditions (up by 212%), retrenchments (up by 445%) and refusal to bargain (up by 519%).

The public sector experienced more work stoppages than the private sector in 2017. The largest industrial disputes last year were recorded in the community sectors (mainly health and social services) with 58 strikes, followed by mining and manufacturing with 18 strikes each.

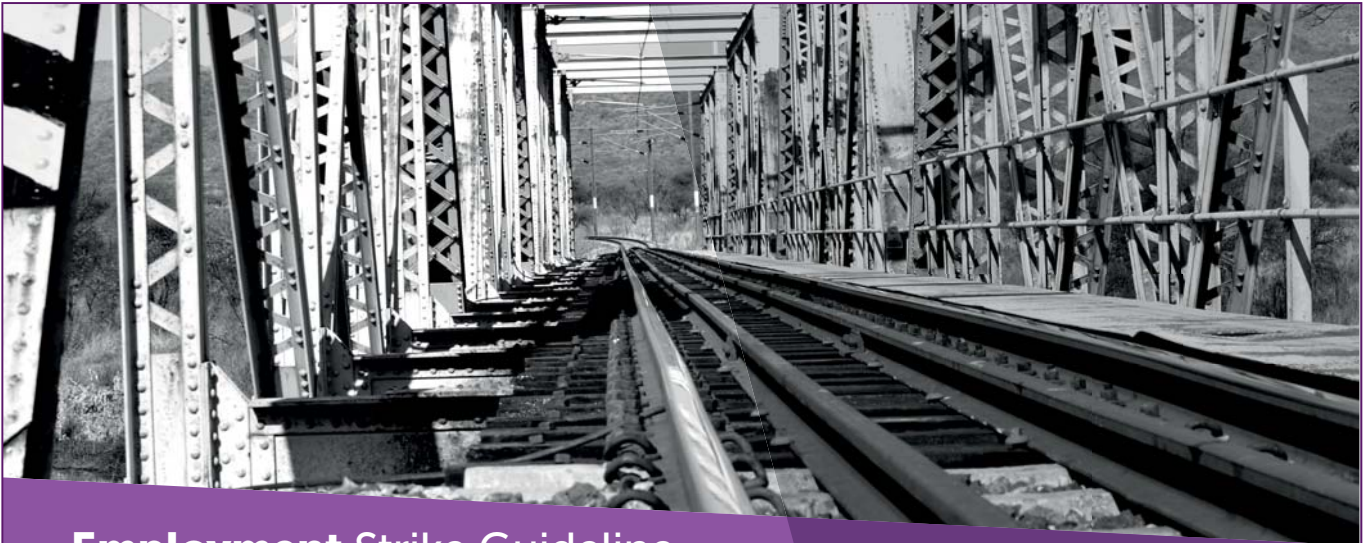
The average wage settlement rates in all industries was 7.7%. Wage settlements were highest in the mining, transport, utilities and manufacturing sectors and lowest in the construction and manufacturing sectors. On a positive note, a number of different industries were able to achieve multiyear wage agreements.

The history of income inequality in South Africa is a significant challenge and goes some way to explain the massive strike figures. However, in many cases the duration of industrial action and the financial impact strikes have on workers appears to be exacerbating their situation rather than improving it. Significantly, the economic impact of industrial action due to loss of wages on workers was calculated at R251 million in 2017. This is dramatic increase from the R161 million in lost wages in 2016. Invariably the report reveals that in most industries, workers resolve their disputes for far less than what they initially demanded.

The soon to be implemented National Minimum Wage will increase the earnings of more than six million working South Africans. The report envisages that this will reduce the number of industrial disputes arising due to wage demands. Whether the implementation of the National Minimum Wage will achieve its laudable aim remains to be seen.

The full report can be accessed at the following link: <http://www.labour.gov.za/DOL/documents/annual-reports/industrial-action-annual-report/2017/industrial-action-report-2017>.

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Jose Jorge and Steven Adams



Employment Strike Guideline

Find out when a lock-out will be protected.

 [Click here to find out more](#)



Best Lawyers 2018 South Africa Edition

Included 53 of CDH's Directors across Cape Town and Johannesburg.

Recognised Chris Charter as Lawyer of the Year for Competition Law (Johannesburg).


Recognised Faan Coetzee as Lawyer of the Year for Employment Law (Johannesburg).

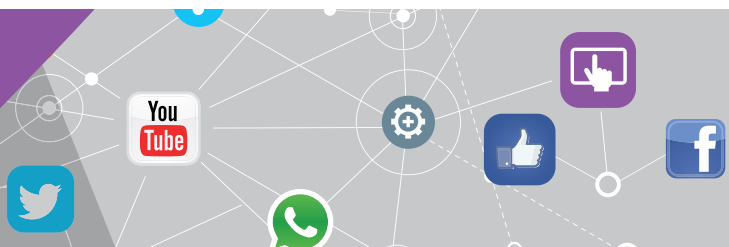
Recognised Peter Hesseling as Lawyer of the Year for M&A Law (Cape Town).

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BBBEE STATUS: LEVEL TWO CONTRIBUTOR

Cliffe Dekker Hofmeyr is very pleased to have achieved a Level 2 BBBEE verification under the new BBBEE Codes of Good Practice. Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

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