

# Employment Law

## ALERT

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INCORPORATING  
**KIETI LAW LLP, KENYA**

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#### A change to working hours in South Africa: The Department of Employment and Labour weighs in

Before the COVID-19 pandemic, many were shocked at discussions around the Fourth Industrial Revolution, the digitisation of work, and the creation of 'gig' platforms, citing these changes to the labour environment as radical. A few moments thereafter, the world was rapidly plunged into a new normal, first with the performance of fully remote work, and now, a hybrid model between in-person and remote functions.

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## A change to working hours in South Africa: The Department of Employment and Labour weighs in

Before the COVID-19 pandemic, many were shocked at discussions around the Fourth Industrial Revolution, the digitization of work, and the creation of 'gig' platforms, citing these changes to the labour environment as radical. A few moments thereafter, the world was rapidly plunged into a new normal, first with the performance of fully remote work, and now, a hybrid model between in-person and remote functions.

In this new era, much debate has been sparked around the reduction of working hours, and the implementation of a four-day working week. This concept, however, is not novel. At the 46<sup>th</sup> International Labour Convention on 26 June 1962, the International Labour Organization adopted the Reduction of Hours of Work Recommendation (No. 116), which notably sought to indicate practical measures for the progressive reduction of hours of work, taking into account the different economic and social conditions in different countries as well as the variety of national practices for the regulation of hours and other conditions of work.

Article I(4) of the Recommendation provides that: *"normal hours of work should be progressively reduced, when appropriate, ... without any reduction in the wages of the*

*workers as at the time hours of work are reduced"*. The social standard indicated in the preamble of the Recommendation is that of a 40-hour working week.

At its inception, it was widely accepted that such a model would only be suitable for certain industries in South Africa, as the majority of working South Africans form part of industries such as mining, agriculture and manufacturing, and these sectors' working hours are highly regulated main collective agreements and sectoral determinations. In many of those sectors, salaries are directly linked to hours worked.

However, responding to a parliamentary question and answer session last week, the Department of Employment and Labour (Department) has advised that there is "room" to conduct further research on working hours in South Africa,



Cliffe Dekker Hofmeyr

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## A change to working hours in South Africa: The Department of Employment and Labour weighs in

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with the last investigation having been conducted by the Employment Conditions Commission in 2014. It said:

*"There might be a need to conduct more research in order to track the progress that has been made in the reduction of the working hours since the last report, and also to establish the feasibility of reducing hours of work – and the unintended consequences thereof."*

According to the Department, particular focus needs to be placed on sectors that are earning minimum wage. In addition to this, the reduction of working hours already forms part of the proposals under discussion at the National Economic

Development and Labour Council's Labour Law Reform Task Team, with the Congress of South African Trade Unions having tabled a 40-hour working week for discussion as early as 3 March 2021.

The challenge of such a model lies largely in its potential implementation, and potential amendments to the Wage Bill, more so in highly unionised environments where negotiations on basic conditions of employment are particularly complex. Notwithstanding, the topic of reduced hours of work without loss of pay, may easily find its way to the tables of collective bargaining, which may radically alter the labour space for a time.

**Hugo Pienaar, Nadeem Mahomed and Abigail Butcher**



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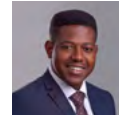
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**BBBEE STATUS: LEVEL ONE CONTRIBUTOR**

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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