

Employment Law

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South Africa

- Labour Law Amendment Bill, 2025: proposed reforms now open for public comment



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Labour Law Amendment Bill, 2025: proposed reforms now open for public comment

Public comment deadline: 30 March 2026

The Minister of Employment and Labour has published the Labour Law Amendment Bill, 2025 (Bill) for public comment. The Bill seeks to amend the Basic Conditions of Employment Act, 1997 (BCEA), the Employment Equity Act, 1998 (EEA), the Labour Relations Act, 1995 (LRA) the National Minimum Wage Act, 2018 (NMWA), and the Unemployment Insurance Act, 2001 (UIA).

This article summarises the most significant proposed changes, with particular focus on the major amendments to the BCEA and the LRA. The BCEA was last amended in 2020 and the LRA was last amended in 2019. The Bill also amends the UIA to align parental benefits with the BCEA amendments.

Legislation	What the Bill changes (high-level)
BCEA (1997).	Protections for on-call work; parental leave reform; severance pay; strengthened enforcement and dispute resolution
EEA (1998)	Expanded arbitration route for harassment-based discrimination; clearer bargaining council referrals; reduce duplicate EE assessments
LRA (1995)	Collective bargaining; small/new business relief; essential services; retrenchment facilitation; dismissal/probation; remedies and dispute resolution
NMWA (2018)	Clarify take-home pay (exclude deferred payments); adjust NMW Commission composition and governance
UIA (2001)	Parental benefits aligned with BCEA amendments; replacement of maternity/parental benefit provisions following Constitutional Court judgment

The BCEA: major proposed amendments



On-call work: minimum safeguards for unpredictable scheduling

A new framework is proposed for employees earning below the BCEA earnings threshold who are required to work only when work is made available (so called on-call or zero-hours workers). The reforms are designed to introduce predictability and protect employees from last-minute cancellations and volatile hours.

Employers would be required to specify, in written particulars:

- Maximum hours per period
- Period the employee must be available to work
- The notice period for reporting to work and for cancellation

The notice for reporting or cancellation must be reasonable, assessed against operational and worker-impact factors. Where cancellation occurs without the required notice, the employer must remunerate employees for cancelled work hours.

On-call work: from informal flexibility to defined minimums

Currently		Proposed section 9B (minimum floor)
No set maximum hours	→	Guaranteed + maximum hours stated
Late notice/cancellations	→	Reasonable notice required
No pay for cancelled work	→	Pay due if notice not given
Weak predictability	→	Defined availability windows

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Parental leave: a redesigned model

The parental leave framework is proposed to be streamlined and made more inclusive, creating a unified parental leave right for parents of newborn children, adopted children and children born through surrogacy arrangements in accordance with the Constitutional Court judgment in *Van Wyk and Others v Minister of Employment and Labour; Commission for Gender Equality and Another v Minister of Employment and Labour and Others*.

High-level summary

If one employee-parent claims:

four months' parental leave.

If two employee-parents claim:

four months plus 10 days in total, with neither parent taking more than four months.

This leave may be taken by the two parents concurrently or consecutively, or partly concurrently and partly consecutively.



Birthing parent context:

If the parents are unable to conclude an agreement on the leave allocation, the birthing parent can elect to take

four months' parental leave, in which case the other parent is entitled to take 10 days' parental leave; or

less than four months' parental leave, in which case the other parent is entitled to take the remainder portion of the parental leave entitlement.

A birthing parent may not work for six weeks after the birth of her child, unless a medical practitioner or midwife certifies that she is fit to do so.

An employee who has a miscarriage during the third trimester of pregnancy or bears a still-born child is entitled to parental leave for six weeks after the miscarriage or still-birth.

Adoption and surrogacy context:

If the parents are unable to conclude an agreement on the leave allocation, the leave entitlement must be apportioned equally between the parents.

Adoption-related parental leave eligibility extended to children up to six years of age.

An employee, excluding a birthing parent, is not entitled to take parental leave more than once in any twelve-month period.

The Bill retains an advance written notice requirement (generally at least four weeks).



Severance pay: doubling the statutory floor (prospectively)

The Bill proposes increasing statutory severance pay for operational requirements dismissals from one week to two weeks' remuneration per completed year of service. A transitional approach is proposed so that the increased entitlement applies prospectively to completed years of service commenced after the amendment comes into effect.

Severance disputes may be referred to the CCMA for arbitration where fairness is not challenged, which is intended to reduce duplicated proceedings and jurisdictional disputes.

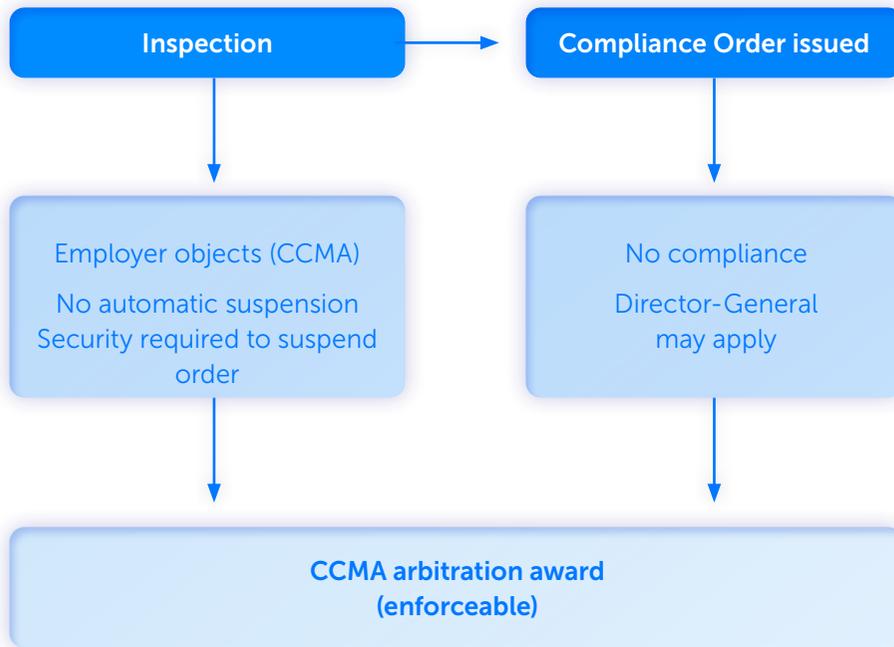


Enforcement and dispute resolution: stronger tools, fewer procedural detours

- Expanded enforcement definitions of employee and employer for compliance purposes.
- Recognised union representatives may accompany labour inspectors during inspections.
- Objections to compliance orders do not automatically suspend the order unless security is provided to the CCMA.
- Clearer, faster routes for the CCMA to arbitrate objections and convert non-complied compliance orders into enforceable awards.
- Ability to consolidate BCEA and NMWA disputes with claims under other employment laws.
- Fines paid for failure to pay the national minimum wage must be paid over to the affected employee.
- A framework for claims about unpaid benefit fund contributions and interest, while avoiding duplication where another tribunal has already determined the issue.



Compliance orders: proposed faster enforcement pathway



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The EEA: major proposed amendments



Harassment-based discrimination: expanded CCMA arbitration

Currently, employees may only refer sexual harassment claims to CCMA arbitration. The Bill proposes expanding this to allow employees to refer any unfair discrimination claim based on harassment (including harassment on grounds of race, gender, disability or other listed grounds) to the CCMA for arbitration, provided conciliation has not resolved the dispute.



Bargaining council referrals: clearer pathways

A new section 10A clarifies the circumstances in which EEA disputes may be referred to a bargaining council. Such a dispute may be referred where this is provided for in a collective agreement or where the bargaining council has been accredited by the CCMA to perform this function.



Certificate of Compliance: preventing duplicate assessments

The Bill proposes that an employer's Certificate of Compliance under the EEA will constitute proof of employment equity compliance under any other law. This is intended to prevent employers from being assessed multiple times for employment equity compliance under different legislation.

The NMWA: major proposed amendments



Take-home pay: excluding deferred payments

The Bill proposes clarifying that deferred payments (such as retirement fund contributions) are excluded from the wage calculation when determining compliance with the national minimum wage. This is intended to ensure that the minimum wage reflects actual take-home pay, following the Labour Appeal Court decision in *Quantum Foods (Pty) Ltd v Commissioner Jacobs and others* [2024] BLLR 32 (LAC) that raised concerns about the purpose of the NMWA being undermined. The Bill also removes the requirement for a separate minimum wage review for farm and domestic workers.

The UIA: major proposed amendments



Parental benefits: aligned with BCEA amendments

The Bill proposes repealing and replacing sections 24 to 29C of the UIA with new provisions regulating parental benefits. This aligns the UIA with the BCEA amendments following the Constitutional Court judgment in *Van Wyk and Others*. A single parent or sole UIF contributor will be entitled to 17.32 weeks of parental benefits; two contributors may share 17.32 weeks plus 10 days.

Terminology change: maternity to parental benefits

References to “*maternity*” benefits are changed to “*parental*” benefits throughout, reflecting the new unified parental leave framework.

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The LRA: major proposed amendments

The Bill proposes reforms aimed at strengthening collective bargaining, unblocking dispute resolution systems, and calibrating protections in response to labour-market realities.



Collective bargaining legitimacy: expanded secret-ballot requirements

The Bill proposes that ballots to terminate or extend closed shop agreements must be conducted by secret ballot and introduces consequences if ballots are not held within prescribed periods. It also proposes secret-ballot requirements before a trade union or employers' organisation may reject certain advisory arbitration awards in specific strike and lock-out contexts.



Small and new business: temporary relief from bargaining council terms

Newly established employers employing fewer than 50 employees may, under the proposal, be excluded from bargaining council terms and conditions for the first two years of operation, subject to exclusions designed to prevent restructuring abuse. During this period, the employer would still need to comply with all other labour laws.



Essential services: protected strikes where minimum services exist

The Bill proposes clarifying when employees in essential services may embark on protected strike action where a minimum service agreement or determination exists, after the statutory conciliation process, provided that minimum service employees do not participate.



Retrenchments and facilitation: simplifying section 189A

- Empowering the CCMA to make rules for facilitation, rather than relying primarily on ministerial regulations.
- Clarifying when Labour Court referral may proceed after facilitation without a further conciliation step.
- Removing complex procedural fairness challenges during facilitation and restoring a clearer post-dismissal challenge route.
- Allowing a facilitator appointed under section 189A to determine picketing rules in a similar manner to a commissioner.



Dismissals: probation and expanded inquiry-by-arbitrator mechanisms

Two proposed changes are likely to attract close attention. First, unfair dismissal protections may not apply to new employees during their first three months, or for a longer probation period where that period is reasonable and operationally justifiable. Second, contracts may more readily provide for an inquiry by arbitrator through the CCMA, a bargaining council or an accredited agency, as a way to reduce downstream disputes.



Remedies and compensation: differentiating high-paid employees

The Bill proposes adjustments to remedies, including limiting reinstatement for employees earning above R1,800,000 per annum (adjusted annually for CPI) generally to cases of automatically unfair dismissal. It also proposes limits on compensation calculations and a mechanism for the Minister to prescribe and annually adjust the applicable maximum earnings level.



Dispute resolution

The Bill proposes steps to reduce duplication and improve enforceability, including:

- Wider recognition for bargaining councils, statutory councils and agencies to conciliate or arbitrate matters under any employment law.
- CCMA assistance for low-paid workers to enforce awards, including instructing sheriffs and paying related fees in appropriate cases.
- Allowing money awards to be enforced as orders of either the Labour Court or the Magistrates' Court.

- A new Schedule 11 is proposed to extend freedom of association and collective bargaining rights to workers who fall outside the traditional definition of "employee". This would enable such workers to form or join trade unions, exercise organisational rights, and engage in collective bargaining and industrial action in accordance with the LRA's procedures.
- Requiring employees challenging dismissal to elect whether they proceed on unfairness or unlawfulness, aimed at preventing parallel claims.

What to do now

Stakeholders should consider the operational and compliance implications of these proposals, particularly around on-call scheduling practices, parental leave planning and notice processes, severance cost projections, enforcement exposure, probation and dismissal design, and large-scale retrenchment facilitation steps.

Look out for our detailed guideline on the full amendments, to be published shortly.

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OUR TEAM

For more information about our Employment Law practice and services in South Africa, Kenya and Namibia, please contact:

**Aadil Patel**

Practice Head & Director:
Employment Law
Sector Head:
Government & State-Owned Entities
T +27 (0)11 562 1107
E aadil.patel@cdhlegal.com

**Anli Bezuidenhout**

Director:
Employment Law
T +27 (0)21 481 6351
E anli.bezuidenhout@cdhlegal.com

**Frieda Kishi**

Director | Namibia
T +264 83 373 0100
E frieda.kishi@cdhlegal.com

**Fiona Leppan**

Director:
Employment Law
T +27 (0)11 562 1152
E fiona.leppan@cdhlegal.com

**Imraan Mahomed**

Director:
Employment Law
T +27 (0)11 562 1459
E imraan.mahomed@cdhlegal.com

**Nadeem Mahomed**

Director:
Employment Law
T +27 (0)11 562 1936
E nadeem.mahomed@cdhlegal.com

**Yvonne Mkefa**

Director:
Employment Law
T +27 (0)21 481 6315
E yvonne.mkefa@cdhlegal.com

**Phetheni Nkuna**

Director:
Employment Law
T +27 (0)11 562 1478
E phetheni.nkuna@cdhlegal.com

**Desmond Odhiambo**

Partner | Kenya
T +254 731 086 649
+254 204 409 918
+254 710 560 114
E desmond.odhiambo@cdhlegal.com

**Jean Ewang**

Counsel:
Employment Law
T +27 (0)11 562 1499
E jean.ewang@cdhlegal.com

**Thabang Rapuleng**

Counsel:
Employment Law
T +27 (0)11 562 1759
E thabang.rapuleng@cdhlegal.com

**JJ van der Walt**

Counsel:
Employment Law
T +27 (0)11 562 1289
E jj.vanderwalt@cdhlegal.com

**Ebrahim Patelia**

Legal Consultant:
Employment Law
T +27 (0)11 562 1000
E ebrahim.patel@cdhlegal.com

**Daniel Kiragu**

Senior Associate | Kenya
T +254 731 086 649
+254 204 409 918
+254 710 560 114
E daniel.kiragu@cdhlegal.com

**Lee Masuku**

Senior Associate:
Employment Law
T +27 (0)11 562 1213
E lee.masuku@cdhlegal.com

**Leila Moosa**

Senior Associate:
Employment Law
T +27 (0)21 481 6318
E leila.moosa@cdhlegal.com

**Christine Mugenyu**

Senior Associate | Kenya
T +254 731 086 649
+254 204 409 918
+254 710 560 114
E christine.mugenyu@cdhlegal.com

**Kgodisho Phashe**

Senior Associate:
Employment Law
T +27 (0)11 562 1086
E kgodisho.phashe@cdhlegal.com

**Taryn York**

Senior Associate:
Employment Law
T +27 (0)11 562 1732
E taryn.york@cdhlegal.com

**Chantell De Gouveia**

Associate:
Employment Law
T +27 (0)11 562 1343
E chantell.degouveia@cdhlegal.com

OUR TEAM

For more information about our Employment Law practice and services in South Africa, Kenya and Namibia, please contact:



Ra'ees Ebrahim

Associate:
Employment Law
T +27 (0)11 562 1735
E raees.ebrahim@cdhlegal.com



Ayesha Karjieker

Associate:
Employment Law
T +27 (0)11 562 1568
E ayesha.karjieker@cdhlegal.com



Kevin Kipchirchir

Associate | Kenya
T +254 731 086 649
+254 204 409 918
+254 710 560 114
E kevin.kipchirchir@cdhlegal.com



Biron Madisa

Associate:
Employment Law
T +27 (0)11 562 1031
E biron.madisa@cdhlegal.com



Thato Makoaba

Associate:
Employment Law
T +27 (0)11 562 1659
E thato.makoaba@cdhlegal.com



Thato Maruapula

Associate:
Employment Law
T +27 (0)11 562 1774
E thato.maruapula@cdhlegal.com



Sheilla Mokaya

Associate | Kenya
T +254 731 086 649
+254 204 409 918
+254 710 560 114
E sheilla.mokaya@cdhlegal.com



Sashin Naidoo

Associate:
Employment Law
T +27 (0)11 562 1482
E sashin.naidoo@cdhlegal.com



Billy Oloo

Associate | Kenya
T +254 731 086 649
+254 204 409 918
+254 710 560 114
E billy.oloo@cdhlegal.com



Melisa Wekesa

Associate | Kenya
T +254 731 086 649
+254 204 409 918
+254 710 560 114
E melisa.wekesa@cdhlegal.com

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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JOHANNESBURG

1 Protea Place, Sandton, Johannesburg, 2196. Private Bag X40, Benmore, 2010, South Africa.
Dx 154 Randburg and Dx 42 Johannesburg.
T +27 (0)11 562 1000 F +27 (0)11 562 1111 E jhb@cdhlegal.com

CAPE TOWN

11 Buitengracht Street, Cape Town, 8001. PO Box 695, Cape Town, 8000, South Africa. Dx 5 Cape Town.
T +27 (0)21 481 6300 F +27 (0)21 481 6388 E ctn@cdhlegal.com

NAIROBI

Merchant Square, 3rd floor, Block D, Riverside Drive, Nairobi, Kenya. P.O. Box 22602-00505, Nairobi, Kenya.
T +254 731 086 649 | +254 204 409 918 | +254 710 560 114
E cdhkenya@cdhlegal.com

ONGWEDIVA

Shop No A7, Oshana Regional Mall, Ongwediva, Namibia.
T +264 (0) 81 287 8330 E cdhnamibia@cdhlegal.com

STELLENBOSCH

14 Louw Street, Stellenbosch Central, Stellenbosch, 7600.
T +27 (0)21 481 6400 E cdhstellenbosch@cdhlegal.com

WINDHOEK

1st Floor Maerua Office Tower, Cnr Robert Mugabe Avenue and Jan Jonker Street, Windhoek 10005, Namibia.
PO Box 97115, Maerua Mall, Windhoek, Namibia, 10020
T +264 833 730 100 E cdhnamibia@cdhlegal.com

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