

Labour law amendments published for comment

On 26 February 2026, the Minister of Employment and Labour published the Labour Law Amendment Bill, 2025 for public comment. The Bill seeks to amend the Basic Conditions of Employment Act, 1997, the Employment Equity Act, 1998, the Labour Relations Act, 1995, the National Minimum Wage Act, 2018, and the Unemployment Insurance Act, 2001. The due date for the submission of comments is 26 March 2026.

Proposed amendments

Amendments include the following:

Labour Relations Act:

- Collective bargaining: secret ballot requirements will be extended to decisions to extend or terminate closed-shop agreements or before a trade union or employers' organisation may reject certain advisory arbitration awards in specific strike and lock-out contexts.
- Exclusion of newly established employers employing fewer than 50 employees from bargaining council terms and conditions for the first two years of operation.
- Clarifying when employees in essential services may embark on protected strike action – minimum services or maintenance service agreement required.
- Empowering the CCMA to make rules for facilitation of retrenchments.
- Providing that a facilitator appointed under section 189A can determine picketing rules during strike / protest action.
- No unfair dismissal claims during probation period - this means that employers will be allowed to dismiss probationary employees within the first three months — or

within a longer "reasonable" probation period — without facing claims of unfair dismissal. However, this wouldn't apply to cases of automatically unfair dismissals, such as those based on discrimination.

Basic Conditions of Employment Act:

- Substitute and insert certain definitions to permit sectoral determinations to apply to a broader category of employees, specifically so-called on-call employees, gig workers, freelancers, and on-demand contractors .
- Provide minimum conditions of employment applicable to employees who are required to be available for work.
- Parental leave provisions in line with the Van Wyk Constitutional Court judgement.
- Increase severance pay going forward to two weeks per year worked.
- Specify the powers of the Commission for Conciliation, Mediation and Arbitration to enforce compliance orders.
- Clarify the powers of bargaining councils to arbitrate disputes concerning basic conditions of employment;
- Empower the Minister to make regulations concerning the use of fines by the Commission for Conciliation, Mediation and Arbitration.
- There is also a provision allowing recognised union representatives to accompany labour inspectors during inspections.

Employment Equity Act:

- Enable employees to refer a claim concerning any kind of unfair harassment to the Commission for Conciliation, Mediation and Arbitration.
- Specify the capacity of bargaining councils to resolve disputes arising under the Act.

The National Minimum Wage Act:

- To clarify that deferred payments (such as retirement fund contributions) are excluded from the wage calculation made to employees are not taken into account when calculating compliance with the national minimum wage.
- Alter the composition of the National Minimum Wage Commission to exclude community representatives.
- Require that representatives on the Commission have appropriate knowledge, skills, and experience to fulfil their duties.

Unemployment Insurance Act:

- To provide for payment of parental leave benefits by the Unemployment Insurance Fund in a manner consistent with the Basic Conditions of Employment Act and the Van Wyk judgement.

Way forward

Agbiz is studying the provisions of the Bill and working with BUSA to submit comments on the Bill.

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