



EMPLOYMENT

Summary of Recently Proposed Legislative Amendments: National Minimum Wage Act and Employment Equity Act

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Introduction

On 26 February 2026, the Minister of Employment and Labour (“**Minister**”) published, by way of the Government Gazette, a copy of the Labour Law Amendment Bill, 2025 and its Memorandum of Objects, along with the Labour Relations Amendment Bill, 2025 and its Memorandum of Objects.

The Labour Law Amendment Bill contains proposed amendments to the Basic Conditions of Employment Act^[1] (“**BCEA**”), the Unemployment Insurance Act^[2] (“**UI Act**”), the National Minimum Wage Act^[3] (“**NMWA**”), and the Employment Equity Act^[4] (“**EEA**”). The Labour Relations Amendment Bill contains proposed amendments to the Labour Relations Act^[5] (“**LRA**”).

Whilst both the Labour Law Amendment Bill and the Labour Relations Bill propose several amendments to the aforesaid legislation, we highlight in this update some of those proposed amendments to the NMWA and the EEA which are likely to be of particular interest to employers.

A full copy of the Labour Law Amendment Bill, Labour Relations Amendment Bill alongside their Memorandum of Objects can be accessed, and read it full, at the Department of Employment and Labour’s website at https://www.labour.gov.za/DocumentCenter/Bills/Labour%20Relations%20Act,%202025_Labour%20Law%20Amendment%20Bill,%202025.pdf.

NMWA

Deferred Payments and minimum wage

The overall purpose of the NMWA is to provide for the minimum take-home pay which employees are entitled, and subsequently prevent the exploitation of vulnerable / low income workers. In response to the judgement *Quantum Foods (Pty) Ltd v Commissioner H Jacobs N.O.* ('Quantum Foods')^[6], the Minister proposes that deferred payments be excluded from the determination of minimum wage.

Section 5(1) of the NMWA prescribes that the calculation of minimum wage is the amount payable for ordinary hours of work excluding, among others, gratuities including bonuses, tips, and gifts. In the matter of *Quantum Foods*, the question was whether an annual bonus and an employer's provident fund contribution constituted a gratuity or a contractual obligation – a determination which would impact its inclusion, or exclusion, in the calculation of minimum wage. The Labour Appeal Court concluded that, on a proper interpretation of section 5(1) of the NMWA, a contractually agreed upon annual bonus doesn't constitute a 'gratuity' in terms of section 5(1)(c), nor does a provident fund contribution fall to be excluded as a gratuitous payment.^[7]

The proposed amendment seeks to change the position set out in the *Quantum Foods* decision by providing that deferred payments are excluded from the calculation of an employee's minimum take-home pay.

EEA

The Labour Law Amendment Bill seeks to expand the ambit of section 10(6)(aA) of the EEA by entitling an employee to refer any claim concerning unfair discrimination on the grounds of harassment to the CCMA for arbitration where the dispute was not resolved through conciliation.

The previous entitlement under section 10(6)(aA) was limited to instances of sexual harassment, as opposed to a general ground for harassment.

Conclusion

The Labour Law Amendment Bill proposed to introduce several changes to various pieces of employment legislation such as the NMWA and the EEA. Several of these changes are likely, if implemented, to have an impact upon employers. Employer's should, then, consider such proposed amendments in detail and whether they intend raising any objection(s) to same. Employers are reminded that any such objections must be raised by no later than **28 March 2026**, in the stipulated manner.

Please contact Werksmans' [Employment](#) practice area for any further information required.

[1] Act 75 of 1997.

[2] Act 63 of 2001.

[3] Act 9 of 2018.

[4] Act 55 of 1998.

[5] Act 6 of 1995.

[6] *Quantum Foods (Pty) Ltd v Commissioner H Jacobs N.O. and Others* (JA85/2022) [2023] ZALAC 27; [2024] 1 BLLR 32 (LAC); (2024) 45 ILJ 71 (LAC) (18 October 2023).

[7] Paragraphs 28 and 31 of *Quantum Foods*.



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