



EMPLOYMENT

Summary of Recently Proposed Legislative Amendments: The Labour Relations 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 Labour Relations Act 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

Labour Relations Amendment Bill

Collective agreements

The Labour Relations Amendment Bill introduces new provisions relating to the **application of collective agreements**. Whilst such agreements could previously be extended to non-parties in terms of section 32 of the LRA, this is no longer the case for certain new employers. Collective agreements may not bind new businesses who employ less than 50 employees, and their employees.

An employer will be regarded as a new business if they have been in operation for less than two years. This does not include instances where a business is formed by the dissolution or division of an existing business, nor does it include a new employer as per section 197(1)(b) of the LRA.^[6] Section 197 regulates the transfer of contract of employment, subsection (1)(b) specifically denotes the transfer of business from one employer to another employer (ie the new employer).

General powers of the CCMA

Sections 115(1)(a) and (b) of the LRA provides that the CCMA must "(a) attempt to resolve, through conciliation, any dispute referred to it in terms of **this Act**; (b) if a dispute that has been referred to it remains unresolved after conciliation, arbitrate the dispute if...**this Act** requires arbitration and any party to the dispute has requested that the dispute be resolved through arbitration...". The Labour Relations Amendment Bill expands the general powers of the CCMA by clarifying that the CCMA has the power to resolve disputes, through conciliation and arbitration, where it is empowered to do so by **any employment law**, as opposed to the CCMA's authorisation being found in the LRA alone. 'Employment law', as per the LRA, now includes within its purview the NMWA, the BCEA and the Employment Services Act^[7]. This expands the ambit within which the CCMA may operate.

Additionally, the amendment makes provision for the CCMA to assist low-earning employees in enforcing arbitration awards in terms of employment law.^[8] This includes instructing and paying the fees of a Sheriff. However, this does not detract from the fact that the employee remains responsible, in law, for the enforcement of the arbitration award.

Postponement

Additionally, the Commissioner will be empowered to impose a **prescribed fee** on a party who requests a **postponement** of an arbitration hearing, where the Commissioner regards this request as being frivolous, vexatious, or one which could have been reasonably avoided.

High-income earning employees

Furthermore, the amendment introduces a **cap on the compensation** which can be awarded to an employee. Where an employee's dismissal is found to be either substantively or procedurally unfair, the compensation awarded may not exceed the equivalent of 12 months' remuneration calculated at the employee's rate of remuneration at the date of dismissal, to a maximum amount prescribed by the Minister. The same applies to the compensation awarded to an employee in respect of an unfair labour practice, provided that the prescribed amount is not applicable to an unfair labour practice as set out in section 186(2)(d) of the LRA (ie an unfair act/omission between an employer and employee involving an occupational detriment). The current proposed income threshold is R 1,800,000.00 per annum. Therefore, should an employee earn above this threshold, any relevant claim for compensation will be capped at the designated threshold. This amendment was premised on policy considerations which take into account economic vulnerability when determining apt compensation.

Additionally, a high-paying employee earning above the stated income threshold who is dismissed will only be entitled to claim reinstatement as a remedy if their dismissal constitutes an automatically unfair dismissal. This restriction is stated to be congruent with international standards which differentiate the treatment of higher-paid employees in respect of the remedies available to them.

Duplication of claims

The Labour Relations Amendment Bill further aims to prevent the duplication of claims. Should an employee refer a dispute in respect of the unlawfulness of a dismissal, this provision will prohibit them from also bringing a claim, based on the same facts, in respect of the unfairness of the dismissal and vice versa. This proposed amendment emphasises that an employee is required to make an election when challenging a dismissal, which will ultimately ease the burden of disputes in the CCMA and the Labour Court.

Unfair dismissals and new employees

The proposed amendment posits that the relevant protections provided to employees in terms section 188 of the LRA (i.e., the protection against unfair dismissals), do not apply to new employees within their first three months of employment or during a probation period if that period is longer than the former, provided that the probation period is provided for in the contract of employment is reasonable and operationally justifiable.

Conclusion

The Labour Relations Amendment Bill proposed to introduce several changes to the Labour Relations Act. 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.

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- [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] Section 197(1)(b) of the LRA.
 - [7] Act 4 of 2014.
 - [8] Low earning employees denote those employees earning below the threshold as designated by the Minister in section 6(3) of the BCEA.



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