

Keep up to date with the changing labour landscape

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The South African labour landscape continues to shift with numerous changes to legislation effective 1 January 2019, requiring employers to bring themselves up to date to ensure compliance.



Yoni Balkind, Head of Lexis Practical Guidance at LexisNexis South Africa

The changes include the introduction of the National Minimum Wage Act 9 of 2018, 64 years after the Congress of the People first declared that there should be a minimum wage for all workers back in 1955. The CCMA's powers have also been extended to resolve disputes concerning the failure of an employer to comply with the relevant legislation.

"The minimum wage of R20 an hour is an achievement for labour, business and democracy, demonstrating a commitment to better working conditions," says Yoni Balkind, Head of Lexis Practical Guidance at LexisNexis South Africa.

A further improvement to working conditions for South African employees is the extension of the right to parental leave beyond the birth mother to parents, adoptive parents and - in the case of surrogacy - to commissioning parents.

In terms of Section 25 of the Basic Conditions of Employment Act 75 of 1997, a female employee is entitled to at least four consecutive months' maternity leave. Now, new sections inserted into the Basic Conditions of Employment Act, provide for parental leave as follows:

- An employee is entitled to 10 consecutive days' leave from the day the employee's child is born. Employees adopting a child over the age of two, are also entitled to 10 consecutive days' leave.
- Where the employee adopts a child under two, or the employee is a commissioning parent in a surrogacy motherhood agreement, the employee is entitled to 10 consecutive weeks' leave. However, in cases where there are two adoptive or commissioning parents, only one parent is entitled to the 10 consecutive weeks leave - the other is entitled to 10 consecutive days.

The National Minimum Wage Act and the amendments to the Basic Conditions of Employment Act have extended the CCMA's powers to allow labour inspectors to refer disputes concerning the failure of an employer to comply with the relevant legislation.

Section 150 of the Labour Relations Act 66 of 1995 (LRA) empowers the director of the CCMA to appoint one or more commissioners who must attempt to resolve the dispute through conciliation, whether or not that dispute has been referred to the commission or a bargaining council if the parties consent, or in the absence of consent by the parties, if the director believes it is in the public interest to do so.

Other legislation which came into effect in January includes new picketing guidelines for striking. In terms of the new amendments to the LRA, no picket in support of a protected strike or in opposition to a lock-out may take place unless certain conditions are met.

However, a CCMA or bargaining council commissioner can make rules which provide for picketing by employees outside of the employer's premises, in a place which is owned or controlled by a person that is not the employer. The regulations provide a set of default picketing rules which must be covered by the commissioner in the absence of agreement.

Balkind says navigating the changing landscape is made easy with Lexis Practical Guidance, which is designed to bridge

the gap between understanding the law and applying it.

“Lexis Practical Guidance provides all of the relevant information on a single, easy-to-use online platform. Guidance notes, checklists, workflows and forms guide users on what needs to be done and why, how and when to do it making compliance to these recent amendments far simpler for employers and human resource practitioners,” he adds.

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