LABOUR LEGISLATION

1990

JANUARY - MAY
EMPLOYERS’ WORKERS’ BATTLE FOR CONFLICT

APPOINTMENTS

SUNDAY TIMES, BUSINESS TIMES, JANUARY 7, 1990

SEE PAGE 7, ART ON THE TOP
Employers, workers brace for conflict

LABOUR analysts predict upheavals in industrial relations (IR) this year. The results of action in 1999 will become evident this year. Some will be positive, some negative and others are unpredictable.

The Labour Relations Amendment Act (LRAA) for example is likely to continue to be a source of conflict between employers and trade unions as from the National Harassment Commission (NHVC) report does the impossible — satisfy both parties.

Indications are that the report recommends scrapping of the controversial Section 7(2) which allows employers to use unions for damage caused by strikers. The unions would welcome such a decision but many employers favour retention of that

Cuanto and Nacta have threatened a new round of industrial action in continued protest against the Act. The state of the economy is likely to play a big role in IR in 1999. As it did last year. At the end of 1998, the Institute of Industrial Relations (IER) senior policy analyst D. Hirsch correctly predicted that the economy would affect the critical nature of retrenchments and unions.

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M A L L E  C O N R A D I E  housing a major issue in IR is the right to claim compensation for homes inherited by a strike.

At best, it can be hoped that the report will be able to reach a compromise that satisfies both unions and employers.

He们都 predicted privatization and the weak bond of gold as the two main yield elements in this scenario. Pressure for the gold price in 1999 appears fairly optimistic. Many analysts believe it will reach about $440 an ounce and then rise steadily, playing well for the mining industry.

Other trends include a growing dependence of mining communities around the country on the mining industry.

As an 1989 disputes between management and labour are likely to involve many matters, including worker violence and harassment.

Mr. Hirsch believes in a long-term solution to the problem of violence in the mining industry that only can be found in those matters where management and employers work closely together.

But in cases where the mining is in a poor market environment, even if a code of conduct is established, the long-term chances of success have to be considered.

A long-term solution to the problem of violence in the mining industry is the best that can be achieved. The establishment of a national code of conduct would be an important step in this direction.

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Housing will be a primary issue for negotiation. The SA Housing Trust recently signed the first swap deal at 3.3 billion rands. This deal could set a precedent for future deals and could have a significant impact on the construction industry.

Housing Trust acting managing director Willie Cordino believes employers will have to make a greater effort to help those facing over-rudimentations and under-employment for workers. If they do not, there could be social dislocations and confrontations.

Last year's boom in the Personnel Management (PM) industry resulted in a loss of 250 000 jobs. In 1999, the number of jobs lost could be as many as 200 000, particularly in the transport sector where there is a need to manage black-white relationships properly.
Minister decides on changes to labour law

By Drew Forrest

The Minister of Manpower, Mr Eli Louw, has made a decision on politically sensitive labour law changes planned for the next parliamentary session and the legislation is currently with Government draftsmen.

This was confirmed yesterday by the director-general of manpower, Mr Joel Fourie.

Changes are expected to the controversial section 79 (2) of the Labour Relations Act, which broadens union exposure to damages in illegal strikes.

In line with the views of Cosatu/Nactu and major employers, the National Manpower Commission (NMC) is known to have urged the scrapping of the section.

But there were signs last year that the Government was seeking to placate conservative unions who want the section retained.

* The NMC confirmed yesterday that the official deadline for submissions on the revamping of the entire LRA has been extended to the end of next month.
A new era for union politics

THE unbanning of the ANC and other political changes may lead to the removal of some economic constraints and a new approach by trade unions to certain issues. So says Mr Richard Cooke, manager of Juta's Law Publishing Division, who predicts that recent political developments will influence events on the labour front in the near future.

"A new era in industrial relations is unfolding in the wake of State President Mr. F.W. de Klerk's landmark announcements, according to Cooke. "The exiled Scw, for instance, is now free to return to South Africa and engage openly in labour organisation," he says.

"Important developments are happening daily (in the labour arena) considering that the Industrial Court became a reality 10 years ago and the Industrial Appeal Court only two years ago," he says.

Juta is hosting several seminars on law and the role of trade unions in a changing South Africa. Speakers at the meetings include Mr. Halton Cheadle, assistant director of Wits University's Centre for Applied Legal Studies, Mr. Clive Thompson, director of the University of Cape Town's Labour Law Unit, Professor A. Landman of the University of South Africa, and Prof. P.A. de Beer, an attorney.

The seminars will take place at the Sandton Sun Hotel (Johannesburg) today, Elizabeth Hotel (Durban) tomorrow, and the Royal Hotel (Port Elizabeth) on March 1.
Minister asks for LRA amendments from his advisers

MANPOWER Minister Eli Louw has instructed government legal advisers to draft amendments to the Labour Relations Act for tabling in the forthcoming session of Parliament, director-general Joel Fourie said yesterday.

The proposed amendments are based on a recent National Manpower Commission (NMC) report which examined the controversial issues of union liability for damages suffered by employers during unlawful strikes and time limits for processing disputes through conciliation boards or industrial councils.

Fourie said it was hoped the drafting work would be completed soon.

He disclosed last month that the Cabinet had agreed to waive the rule requiring that proposed legislation be before the Cabinet by the previous September.

Fourie said until the Bill was tabled, details of the amendments would remain confidential.

The contents of the NMC report have also not been made public.

However, it is understood the NMC recommended the scrapping of section 79 (2) of the Act.

The section transfers to unions the onus of proof that they were not responsible for damages incurred, thus increasing the scope for employers to sue successfully.

It is believed the NMC also proposed extending time limits and loosening up conditions for waiving them. Unions have protested that the Act potentially allows employers to avoid resolving disputes by using time limit technicalities.

Fourie said the NMC was still working on two other major, longer term investigations related to labour legislation.

The first involves a total overhaul of the Act and the second is into the effects of labour legislation on small business development.

He said the NMC had received a request that the January 10 deadline for submissions on these two investigations be extended.

He said he believed this had been agreed to.
THE 210 000-strong National Union of Metalworkers of SA (Numsa) has called a special conference for February 10 to plan a more co-ordinated collective bargaining strategy in the four main sectors in which it is involved.

Convener Bernie Fanaroff said the conference was also designed to further democratise Numsa's participation in the collective bargaining process.

A pre-conference discussion document circulating within the union said despite important victories, there was a lack of co-operation between the sectors — motor assembly, motor components, engineering and tyre and rubber — in advancing the "living wage campaign".

An example raised in the document, that the motor assembly sector planned for strike action while the engineering sector settled without striking, suggested in future Numsa intended to plan large, simultaneous strikes.

### Demands

It said there were differing regional strategies, weaknesses in some local and factory structures, and a feeling in parts of the union that the living wage campaign should be downgraded so that priority could be given to the campaign against the Labour Relations Act (LRA).

In addition to addressing these matters, the conference is also to discuss the type of demands to be put to employers during the year, taking into account the different circumstances in different sectors.

Suggestions listed included a R1.50 an hour across-the-board increase; improved job security through compulsory negotiation of retrenchments, high severance payments, and LIFO being the only criterion for lay-offs.

It was proposed the issue of job creation be addressed through limits on temporary labour and overtime. Exemptions from industrial council agreements should be opposed.

The draft proposed a R300 a month housing allowance and opposition to racial laws hindering housing development. It also addressed the issues of the LRA, proportional representation on industrial councils, education and training, maternity leave and retirement benefits.
No. R. 157
26 January 1990

WET OP ARBEIDSVERHOUINGE, 1956

YSTER-, STAAL-, INGENIEURS- EN METALLURGIESE NYYREID.—HERNUWING VAN OPVOEDKUNDIGE- EN OPLEIDINGSFONDSOORENKOMS

Ek, Dennis van der Walt, Direkteur: Arbeidsverhoudinge, behoorlik daartoe gemagtig deur die Minister van Mannekrag, verklaar hierby, kragtens artikel 48 (4) (a) (ii) van die Wet op Arbeidsverhoudinge, 1956, dat die bepalings van Goerwementskennisgewings Nos. R. 228 van 8 Februarie 1985, R. 2056 van 13 September 1985, R. 1795 van 21 Augustus 1987 en R. 2452 van 2 Desember 1988, van krag is vanaf 1 April 1990 en vir die tydperk wat op 31 Maart 1991 eindig.

D. VAN DER WALT,
Direkteur: Arbeidsverhoudinge.

No. R. 158
26 January 1990

WET OP ARBEIDSVERHOUINGE, 1956

BOUNYWERHEID, OOS-KAAP.—HERNUWING VAN HOOFOOORENKOMS


D. VAN DER WALT,
Direkteur: Arbeidsverhoudinge.

No. R. 159
26 January 1990

WET OP ARBEIDSVERHOUINGE, 1956

LEERNWYREHID, REPUBLIEK VAN SUID-AFRIKA.—HERNUWING VAN OORENKOMS VIR DIE LOOSEKESIE

Ek, Eli van der Merwe Louw, Minister van Mannekrag, verklaar hierby, kragtens artikel 48 (4) (a) (ii) van die Wet op Arbeidsverhoudinge, 1956, dat die bepalings van Goerwementskennisgewings Nos. R. 380 van 4 Maart 1988 en R. 2313 van 18 November 1988, van krag is vanaf die datum van publikasie van hierdie kennisgewing en vir die tydperk wat op 30 June 1990 eindig.

E. VAN DER M. LOUW,
Minister van Mannekrag.
WET OP ARBEIDSVERHoudINGE, 1956

LEERNYWERHEID, REPUBLIEK VAN SUID-AFRIKA,—WYSIGING VAN OOREENKOMS VIR DIE LOOISEKSE

Ek, Eli van der Merwe Louw, Minister van Mannekrag, verklaar hierby—

(a) kragtens artikel 48 (1) (a) van die Wet op Arbeidsverhoudinge, 1956, dat die bepalings van die Ooreenkomms (hiermeta die Wysigingsooreenkomms genoem) wat in die Bylae hiervan verskyn en betrekking het op die Onderneming, Nywerheid, bedryf of beroep in die opskrif by hierdie kennisgewing vermeld, met ingang van die tweede Maandag na die datum van publikasie van hierdie kennisgewing en vir die tydperk wat op 30 June 1990 eindig, bindend is vir die werkewers en werkners wat lede van geneemde organisasies of vereenigings is; en

(b) kragtens artikel 48 (1) (b) van genoemde Wet, dat die bepalings van die Wysigingsooreenkomms, uitgesonder dit wat in kiousule 1 (1) (a), met ingang van die tweede Maandag na die datum van publikasie van hierdie kennisgewing en vir die tydperk wat op 30 June 1990 eindig, bindend is vir alle ander werkewers en werkners as die genoem in paragraaf (a) van hierdie kennisgewing wat betrokke is by of in diens is in geneemde Onderneming, Nywerheid, Bedryf of Beroep en geheidel in kiousule 1 van die Wysigingsooreenkomms gespesifiseer.

E. VAN DER M. LOUW,
Minister van Mannekrag.

Bylae

Nationale Nywerheidraad Vir die Leernywerheid Van Suid-Afrika

Looiseksee

Ooreenkomms

Ooreenkomstig die Wet op Arbeidsverhoudinge, 1956, gestel deur en aangegaan deur die
twee partye as by die Nationale Nywerheidraad vir die Leer-
nywerheid van Suid-Afrika,


1. Toepassingsbestek van Ooreenkomms

(1) Hierdie Ooreenkomms moet nagekom word in die Loossekse van die Leernywerheid—

(a) deur alle werkewers wat lede van die werkewersorganisasies is; en deur alle werkners wat lede van die vakverenigings en wat onderskeidelik deur die Loossekse betrokke of daarmee werk-

E. VAN DER M. LOUW,
Minister van Manpower.

Schedule

National Industrial Council of the Leather Industry of South Africa

Tanning Section

Agreement

in accordance with the provisions of the Labour Relations Act, 1956, made and entered into by and between the

(a) South African Tanning Employers' Organisation en

(b) Transvaal Footwear, Tanning and Leather Trades Association

(hiermeta die "werkewers" of die "werkewersorganisasies" genoem), aan die ander kant,

(c) National Union of Leather Workers

(d) Transvaal Leather and Allied Trades Industrial Union en

(e) Amalgamated Clothing and Textile Workers' Union S.A.

(hiermeta die "werkners" of die "vakverenigings" genoem), aan die ander kant,

1. Scope of application of agreement

(1) The terms of this Agreement shall be observed in the Tanning Section of the Leather Industry—

(a) by all employers who are members of the employers' organisations and by all employees who are members of the trade unions and who are respectively engaged or employed in the Tanning Section,
WET OP ARBEIDSVERHOUDINGE, 1956
SUIKERVERVAARDIGINGS- EN RAFFINEER-
NYWERHEID — WYSIGING VAN OOREEN-
KOMS

Ek, Eli van der Merwe Louw, Minister van Mannekrag, verklaar hierby —

(a) kragtens artikel 48 (1) (a) van die Wet op Arbeidsverhoudinge, 1956, dat die bepalings van die Ooreenkoms (hieraan die Wysigingsoordeel
ingskoms genoem) wat in die Bylae hiervan verskyn en betrekking het op die Onderneming, Nywerheid, Bedryf of Beroep in die oplevings van hierdie kennisgewing, met ingang van die tweede Maandag na die datum van publikasie van hierdie kennisgewing en vir die tydperk wat op 31 Maart 1991 eindig, bindend is vir die werk-
egewersorganisasies en die vakverenigings wat die Wysigingsoordeelkoms aangegaan het en vir die werkgewers en werknemers wat lede van gene-
noemde organisasies of verenigings is; en

(b) kragtens artikel 48 (1) (b) van genoemde Wet, dat die bepalings van die Wysigingsoordeelkoms, uitgesonderd dié vervat in kloseule 1 (1) (a), met ingang van die tweede Maandag na die datum van publikasie van hierdie kennisgewing en vir die tydperk wat op 31 Maart 1991 eindig, bindend is vir alle ander werkgewers en werk-


E. VAN DER M. LOUW,
Minister van Mannekrag.

SUGAR MANUFACTURING AND REFINING IN-

I, Eli van der Merwe Louw, Minister of Manpower, hereby —

(a) in terms of section 48 (1) (a) of the Labour Relation-
egs Act, 1956, declare that the provisions of the Agreement (hereinafter referred to as the Amending Agreement) which appears in the Schedule hereby and which relates to the Undertaking, Industry, Trade of Occupation referred to in the heading to this notice, shall be binding, with effect from the second Monday after the date of publication of this notice and for the period ending 31 March 1991, upon all employers and employees, other than those referred to in paragraph (a) of this notice, who are engaged or employed in the said Undertaking, Industry, Trade or Occupation in the areas specified in clause 1 of the Amending Agreement.

E. VAN DER M. LOUW,
Minister of Manpower.

SCHEDULE

INDUSTRIAL COUNCIL FOR THE SUGAR MANUFACTURING
AND REFINING INDUSTRY

AGREEMENT

in accordance with the provisions of the Labour Relations Act, 1956, made and entered into by and between

The Sugar Manufacturing and Refining Employers' Association
(hereinafter referred to as the "employers" or as the "employers' orga-
nisation"), of the one part, and

The Amalgamated Engineering Union
The Natal Sugar Industry Employees' Union
The South African Electrical Workers' Association
The Sugar Industry Employees' Association
S.A. Bollermakers', Iron and Steel Workers', Shipbuilders' and
Welders' Society,
National Sugar and Refining and Allied Industries Employees' Union,
Food and Allied Workers' Union,

and

National Industrial and Commercial Workers' Union
(hereinafter referred to as the "employees" or as the "trade unions"), of the other part,

being the parties to the Industrial Council for the Sugar Manufacturing
and Refining Industry,

to amend the Agreement published under Government Notice No.
R 2204 of 5 October 1984, as amended and renewed by Government
Notice Nos. R 1821 of 23 August 1985, R 1808 and R 1809 of 29
August 1986, R 2456 en R 2457 van 30
October 1987 en R 2426 en R 2427 van 2 December 1988, te wylig,
WET OF ARBEIDSVERHOUDINGE, 1956
HAARKAPPERSBEDRYF, PRETORIA.—
OOREENKOMS

Ek, Eli van der Merwe Louw, Minister van Mannekrag, verklaar hierby—

(a) kragtens artikel 48 (1) (a) van die Wet op Arbeidsverhoudinge, 1956, dat die bepaling van die Ooreenkoms wat in die Bylae hiervan verskyn en betrekking het op die Onderneming, Nywerheid, Bedryf of Beroep in die opskrif by hierdie kennisgeving vermeld, met ingang van die tweede Maandag na die datum van publikasie van hierdie kennisgeving en vir die tydperk wat drie jaar na genoemde Maandag eindig, bindend is vir die werkgewersorganisasie en die vakvereniging wat genoemde Ooreenkom in aangegaan het en vir die werkgewers en werknemers wat lede van genoemde organisasie of vereniging is; en

(b) kragtens artikel 48 (1) (b) van genoemde Wet, dat die bepaling van genoemde Ooreenkom, uitgesonderd die verw in klusules 1 (1) (a), 2, 5 (2) (e) en (e), 18, 19, 20, 21 en 30, met ingang van die tweede Maandag na die datum van publikasie van hierdie kennisgeving en vir die tydperk wat drie jaar na genoemde Maandag eindig, bindend is vir al ander werkgewers en werknemers as dié genoem in paragraaf (a) van hierdie kennisgeving wat betrokke is by of in diens is in genoemde Onderneming, Nywerheid, Bedryf of Beroep in die gebiede in klusule 1 van die genoemde Ooreenkom gespesifiseer.

E. VAN DER M. LOUW,
Minister van Mannekrag.

BLYAEL

NYWERHEIDSRAAD VIR DIE HAARKAPPER-
BEDRYF (PRETORIA)

OOREENKOMS

ooreenkomstig die Wet op Arbeidsverhoudinge, 1956, gesluit deur en aangegaan tussen die
S.A. Hairdressers’ and Cosmetologists’ Association
(Northern Transvaal Division)
(hierdie die “werkgewers” of die “werkgewersorganisasie” genoem),
an die een kant, en die
S.A. Hairdressers Employees’ Industrial Union
(Northern Transvaal Branch)
(hierdie die “werkgewers” of die “vakvereniging” genoem), aan die ander kant,
wat die partye by die Nywerheidsraad vir die Haarkappersbedryf
(Pretoria)

1. TOEPASSINGSBESTEK VAN OOREENKOMS

(a) Vir die werkgewers wat lede van die werk-
gewersorganisasie is en deur alle werknemers wat lede van die vakvereniging is,
(b) in die laardoodsdriktse Pretoria en Wonderboom

2. Ondanks subklusule (1) is hierdie Ooreenkom

(a) slechts van toepassing op werknemers wat werk in die Haarkappersbedryf voorgeskryf word en op die werkgewers van sode-

(a) slechts van toepassing op werkneemers wat werk in die Haarkappersbedryf voorgeskryf word en op die werkgewers van sode-

(b) slechts van toepassing op vakleerlinge se oorseer dit nie onbe-

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1. SCOPE OF APPLICATION OF AGREEMENT

(1) The terms of this Agreement shall be observed in the Hair-
dressing Trade—

(a) by all employers who are members of the employers’ organi-
sation and all employees who are members of the trade union;
(b) in the Magisterial Districts of Pretoria and Wonderboom.

(2) Notwithstanding the provisions of subsection (1), the terms of this Agreement shall—

(a) only apply to employees for whom wages are prescribed in

(b) only apply to apprentices as far as they are not in-

C. V. VAN DER M. LOUW,
Minister van Manpower.

SCHEDULE

INDUSTRIAL COUNCIL FOR THE HAIRDRESSING TRADE (PRETORIA)

AGREEMENT

in accordance with the provisions of the Labour Relations Act, 1956, made and entered into by and between the
S.A. Hairdressers’ and Cosmetologists’ Association
(Northern Transvaal Division)

(hereinafter referred to as the “employers” or the “employers’ organisation”), of the one part, and the
S.A. Hairdressers’ and Cosmetologists’ Association
(Northern Transvaal Branch)

(hereinafter referred to as the “employees” or the “trade union”), of the other part,

being the parties to the Industrial Council for the Hairdressing Trade (Pretoria)

1. SCOPE OF APPLICATION OF AGREEMENT

(a) The terms of this Agreement shall be observed in the Hair-

dressing Trade—

(a) by all employers who are members of the employers’ organi-
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(b) in the Magisterial Districts of Pretoria and Wonderboom.

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(2) Notwithstanding the provisions of subsection (1), the terms of this Agreement shall—

(a) only apply to employees for whom wages are prescribed in

(b) only apply to apprentices as far as they are not in-

C. V. VAN DER M. LOUW,
Minister van Manpower.
KENNISGEWING 58 VAN 1990

DEPARTEMENT VAN MANNEKRAG

WET OP ARBEIDSVERHOUDINGE, 1956

AANSEKOM VERANDERING VAN DIE REGISTRASIEBESTEK VAN 'N VAKVERENI-

GING

Ek, Johannes Theodorus Crouse, Assistent-nywerheidsregister te maak ingeval artikel 4 (2) soos toegeges by artikel 7 (5) van die Wet op Arbeidsverhou-

dinge, 1956, hierby bekend dat 'n aansoek om die verandering van sy registrasiebestek ontvang is van die South African Aviation Engineering and Allied Union. Besonderhede van die aansoek word in onderstaande tabel verstreken.

Enige geregistreerde vakvereniging wat teen die aansoek beswaar maak, word versoen om binne een maand na die datum van publikasie van hierdie kenning te gevoel dat die aansoek onafskeiklik deur me in te dien, p/a die Depart-


TABEL

| Naam van vakvereniging: South African Aviation Engineering and Allied Union |
| Datum waarop aansoek ingediend is: 11 Desembe |
| Belange en gebied ten opsigte waarvan aansoek ge-

| doen word: Alle persone in diens die Vlugvaar-
| be-
| dryf as Vlughtongonderhoudassistent, Vlugvaarttoe-
| sig-
| houers, Voorraadkontroleurs, Kajuitbeampte en 
| Vragkontroleur in die Republiek van Suid-Afrika. |
| Vir die doeleindes hiervan word boggemeld bedryf 
| soos volgens omkryf. |
| "Vlugvaarbedryf" beteken die bedryf waarin werkgewers en werknemers met mekaar geasso-
| ceeer is met di doel om aktiwiteite uit te voer wat verband hou met die aankoms en/of vertrek van vliegtuie wat passasiers en/of lugvrag vervoer ten 
| vergoeding. |
| Posadresse van applicant: Posbus 3888, Kempton 
| Park, 1620. |
| Kantooradress van applicant: Kamer 206, Annex 
| 707, Jan Smutsplein. |
| Die aandag word gevestig op onderstaande vereistes 
| van artikel 4 en 7 van die Wet: |
| (a) Die mate waarin 'n beswaarmakende vakveren-
| ging verteenwoordigend is, word ingevolge artikel 
| 4 (4), soos toegeges by artikel 7 (5), bepaal volgens 
| die fete soos hulle bestaan het op die datum waarop 
| die aansoek ingediend is, en 
| wat die lidmaatskap betref, word alleen lede wat 
| ingevolge artikel 1 (2) van die Wet op voor-
| melde datum volwaardige lede was, in aanmer-
| king geneem. |
| (b) Die prosedure voorgeskryf by artikel 4 (2) moet 
| gevolg word in verband met 'n beswaar wat inge-
| dien word |

J T. CROUSE,
Assistent-nywerheidsregister te

(26 Januarie 1990)

NOTICE 58 OF 1990

DEPARTMENT OF MANPOWER

LABOUR RELATIONS ACT, 1956

APPLICATION FOR VARIATION OF SCOPE OF REGISTRATION OF A TRADE UNION

I, Johannes Theodorus Crouse, Assistant Industrial Registrar do hereby, in terms of section 4 (2) as applied by section 7 (5) of the Labour Relations Act, 1956, give notice that an application for the variation of it scope of registration has been received from the South African Aviation Engineering and Allied Union. Particulars of the application are reflected in the subjoined table.

Any registered trade union which objects to the application is invited to lodge its objection in writing with me, c/o the Department of Manpower, 123a Manpower Building, 215 Schoeman Street, Pretoria (postal address: Private Bag X117, Pretoria; 0001), within one month of the date of publication of this notice.

TABLE

| Name of trade union: South African Aviation Engineering and Allied Union. |
| Date on which application was lodged: 11 December 1989. |
| Interests and area in respect of which application is made: All persons employed in the Aviation Industry as Aircraft Maintenance Assistants, Aeronautical Supervisors, Stock Controllers, Cabin Attendants and Cargo Controllers in the Republic of South Africa. |
| For the purposes hereof the above-mentioned industry is defined as follows: "Aviation Industry" means the industry in which employers and employees are associated for the purpose of conducting activities relating to the arrival and/or departure of aircraft conveying passengers and/or freight for reward |
| Postal address of applicant: P.O. Box 3888, Kempton Park, 1620. |
| Office address of applicant: Room 206, 707 Annex, Jan Smuts Airport. |

Attention is drawn to the following requirements of sections 4 and 7 of the Act:

(a) The representativeness of any trade union which objects to the application shall in terms of section 4 (4) as applied by section 7 (5) be determined on the facts as they existed at the date on which the application was lodged, and, as far as membership is concerned, only members who were in good standing in terms of section 1 (2) of the Act as at the aforesaid date shall be taken into consideration.

(b) The procedure laid down in section 4 (2) must be followed in connection with any objection lodged.

J. T. CROUSE,
Assistant Industrial Registrar.

(26 January 1990)
Unions ready for battle if they don’t win

Employers and trade unions are anxiously awaiting news from the forthcoming session of Parliament at which amendments to the Labour Relations Amendment Act (LRAA) will be tabled.

The Government’s legal advisors are drafting the amendments. They are based on a report by the National Manpower Commission (NMC), which handed its recommendations to Manpower Minister Elsie Lahee last December.

Employer organizations Sasol and union federation Cosatu and Nacta have discussed the LRRA for more than a year and the deadlock of the amendments effectively means there is no more participation on their side.

New it is all up to the Government. Mr Lahee believes that labour peace in one of the most important considerations in industrial relations this decade, and that the amendments to the LRRA will play a decisive role.

The amendments will seek to define the role of the government in industrial relations, to clarify the role of the Labour Relations Commission and to make sure that the LRRA is not used as a means to settle industrial disputes.

Employers stop looking for workers in the exercise of individual rights. industrial rights should be geared towards the prevention of industrial disputes and to enable employers to settle disputes when they arise.

Although neither the NMC nor the Government will divulge details of the report, tentative suggestions include the controversial Section 72 (1) which makes union strikes for strikes, will be scrapped and three months relocation to dispute procedures will be extended.

The deal will be made by two of the six arbitration demands listed by Cosatu and Nacta. The other four demands are that employers stop looking for workers in the exercise of individual rights. industrial rights should be geared towards the prevention of industrial disputes and to enable employers to settle disputes when they arise.

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THE Manpower Department has produced a Labour Relations Amendment Bill that goes some way towards addressing union objections to two aspects of the 1988 amendments that sparked outbreaks of shopfloor militancy.

A copy of the Bill, acquired by Business Day, shows government intends scrapping that part of Section 79 (2) of the Labour Relations Act (LRA) that transfers to unions the onus of proof, in the event of litigation, that members and officials were not acting with union authority in causing financial loss to companies during unlawful strikes.

The Bill also substantially extends and makes more flexible the time limits on the referral of disputes to industrial councils or conciliation boards, and simplifies these procedures.

It is based on the recommendations of a National Manpower Commission report completed late last year.

The report was commissioned by Manpower Minister Eli Louw.

It is expected the Bill will become law during the next session of Parliament, which opens on Friday. The Cabinet has waived its rule that proposed legislation be tabled before it by the previous September.

Labour lawyers yesterday expressed general satisfaction that the Bill represents an improvement on the present provisions of the Act.

Graham Damant described it as “a vast improvement”, while Paul Benjamin said it was generally “unproblematic”.

The amendment to Section 79 (2) deletes the assumption that members or officials of unions or employer organisations “shall until the contrary is proved be deemed to have been acting with due authority” of their organisation.

This part of the Act had been attacked as opening the way for crippling litigation against unions.

The Act will continue to specify that interference with the contractual relationship between employers and employees renders one liable for damage claims.

However, both attorneys said this was the common law position in any event, and they speculated that the passage might have been retained as a “political compromise to satisfy right-wing groups”.

They welcomed an amendment that would scrap the requirement for disputes to be referred to industrial councils or conciliation boards within 21 days of deadlock being reached.

The existing law prevents any referral after the 21-day period has passed. Unions and lawyers have objected, saying this has prevented disputes from being resolved due to a technicality, and that it has therefore hindered good labour relations.

In terms of the Bill, it will still be required that disputes be referred to councils or boards within 90 days of such disputes arising, or the unfair labour practice coming into being.

The attorneys regretted the section had been retained, as it would “still cause hardship”.

However, Damant said, the law permitted an industrial council or the Manpower director-general to condone late referrals.

The minimum period accorded an industrial council or conciliation board to resolve a dispute will be extended from 30 to 45 days, effectively lengthening the “cooling-off” period for which the Act provides.

Parties to a dispute will, in terms of the Bill, have up to 30 days — instead of the present 14 — to refer an unresolved dispute from a council or board to the Industrial Court. The court will be empowered to condone late referral if good cause is shown.
Saccola lauds planned Labour Act changes

Employer federation Saccola has welcomed the proposed changes to the Labour Relations Act reported yesterday, but stressed good labour law ultimately depends on blacks having equal access to law-making forums.

The new draft Labour Relations Amendment Bill extends the time limits for processing disputes through official channels and deletes the part of Section 79 (2) which reversed the normal rules regarding onus of proof in damages suits.

Manpower director-general Joel Fourie said yesterday the Bill was still under departmental discussion. He did not expect many substantive changes, if any, to be made before it was tabled in Parliament.

Saccola chairman Bobby Godsell said he was pleased government had addressed issues central to the talks employers had conducted with Cosatu and Nactu during the past 18 months.

"But, having said that, we still will not have good labour law until blacks have equal access to the legislature, and organised labour is fully involved in bodies like the National Manpower Commission (NMC)," he said.

SA urgently needed a common consultative and negotiating forum for labour law which included all parties, he said. Meanwhile, Saccola would continue talking to government and the unions.

Onus

Comment from Cosatu and Nactu was unavailable late yesterday, but union sources said a meeting would be held to discuss the Bill tomorrow night.

In a statement yesterday, Sefsa welcomed the proposed scrapping of the part of Section 79 (2) that placed on unions the onus to prove they were not responsible for damages arising from unlawful strikes. This would result in a return to the normal principles of SA law.

Sefsa welcomed the proposed removal of the industrial council's obligation to refer unresolved disputes to the industrial court, because, it said, the onus should rest with any party to the dispute.

The employer federation supported the proposed extension of the time limit from 14 to 30 days for the referral of disputes to the Industrial Court as there would no longer be unnecessary delays.

Proposed amendments to Section 27A of the Act would simplify the dispute resolution process and eliminate technical points arising from the current wording of the Act.

But the statement said the proposed wording relating to the time limit for referral of disputes to industrial councils could be problematic in determining exactly when a dispute was alleged to have arisen.

Sefsa said the proposed extension of the time period within which an industrial council could settle a dispute — 30 to 45 days — would allow time for more effective conciliation processes regarding dispute resolution and determent of potential industrial action, pending the outcome of longer conciliation processes.

Comment: Page 6
Unions vindicated, says lawyer

LRA amendments insufficient – DP

By Drew Forrest

Proposed changes to the Labour Relations Act were an improvement but would do little to defuse union anger over the legislation, the Democratic Party’s manpower spokesman, Mr Peter Gastrow, warned yesterday.

The Star has confirmed reports that Government drafters have produced an amending Bill based on last year’s National Manpower Commission inquiry.

Manpower director-general Mr Joel Fourie said yesterday the Cabinet was still to decide on an aspect of the Bill and further amendments were possible. However, it was intended to enact it in the next session of parliament.

The current version of the Bill:

Scraps part of section 79 (2) of the LRA which broadens union liability for damages by presuming unionists to have instigated illegal strikes. The rump of the clause, which creates a statutory liability for damages, stands.

Unions argued that the section exposed them to crippling damages claims.

Relaxes time limits in official dispute-settling procedures. The Bill scraps a requirement that parties apply for a conciliation board or industrial council hearing within 21 days of deadlock, but still requires them to apply within 90 days of the dispute erupting.

Proposal is also made for the condonation of late applications.

Extends the “cooling-off” period between the referral of a dispute to an industrial council and a strike ballot from 30 to 45 days.

Mr Gastrow said the Manpower Department “like the proverbial elephant has laboured mightily to bring forth a mouse”.

To meet union complaints, more sweeping changes were needed. A key problem was the “rigid” definition of unfair labour practice in the Act, which was not suited to the fluid labour arena.

Step in right direction

Stressing that the status of the Bill was unclear, Anglo American’s Mr Bobby Godsell said there was an encouraging overlap between its provisions and the content of union-employer talks on the LRA.

Labour lawyer Mr Paul Benjamin described the relaxation of time-limits as a step in the right direction, but added that the 90-day requirement still allowed for a technical and obstructive approach to disputes.

Union objections had been vindicated, he said, urging employers to consider rehiring workers fired during LRA protest stayaways.
JOHANNESBURG.—A Congress of SA Trade Unions team is studying the proposed amendment to the Labour Relations Act and will issue a statement on completion of the study, spokesman Mr Neil Coleman said yesterday.

“Our LRA working committee will meet this week to discuss the campaign and we will issue a statement after that,” Mr Coleman said.

The Labour Relations Amendment Bill goes some way towards addressing union objections to two aspects of the 1988 amendments that sparked outbreaks of shopfloor militancy. Based on the recommendations of a National Manpower Commission report commissioned by Manpower Minister Mr Etlou Louw, it was completed late last year.

It shows that the government intends scrapping that part of Section 79(2) of the LRA which transfers to unions the onus of proof in the event of litigation that members and officials were not acting with union authority in causing financial loss to companies during unlawful strikes.

It is expected the bill will become law in the next session of Parliament, which opens on Friday.
Mixed reaction to LRA modifications

PROPOSED Labour Relations Act changes revealed this week were a welcome beginning, and it was vital that the labour movement be involved in restructuring the Act as a whole, key employer spokesmen said yesterday.

Mr Vincent Brett, labour advisor of the SA Chamber of Commerce, said he hoped the unions would “make their input on this occasion”.

At the same time, a leader of South Africa’s largest white labour body, the 100 000-member SA Confederation of Labour (Sacol), has criticised the effective scrapping of a section of the LRA which shifts the onus of proof onto unions facing damages arising from illegal strikes.

Sacol secretary Mr Nic Celliers said white organised labour feared a rise in illegal strike action because of foreign interference.

The Government plans to overhaul the entire LRA, and the National Manpower Commission (NMC) has called for representations as a prelude to an inquiry.
New Act
a welcome
beginning
- bosses

Labour Reporter

Proposed Labour Relations Act changes revealed this week were a welcome beginning, and it was vital that the labour movement was involved in restructuring the Act as a whole, key employer spokesmen said yesterday.

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ILLEGAL STRIKES

This shifts the onus of proof on to unions facing damages arising from illegal strikes.

Stressing that he had no objection to lawful strikes, Sacol secretary Mr Nic Celliers said white organised labour feared a rise in illegal strike action because of foreign interference.

Mr Vincent Brett, labour adviser of the SA Chamber of Business, yesterday welcomed the Bill but stressed that it was only a beginning.

"We are hoping to look at the whole Act and trust that unions will make their input on this occasion," he said.

DISPENSATION

The Government plans to overhaul the entire LRA, and the National Manpower Commission (NMC) has called for representations as a prelude to an inquiry.

Thus week the employer body Sacola stressed that an acceptable labour dispensation would only be reached when blacks were represented in the legislature and such forums as the NMC.
Vehement union opposition to the 1988 Labour Relations Act should be defused to some extent by the new Amendment Bill, drafted by the National Manpower Commission (NMC).

It addresses two of the more controversial measures in the Act — as directed by Manpower Minister Eli Louw, when he invited submissions to the NMC last July on ways to "modernise and simplify" the Act.

The first proposed change concerns section 79 (2), which, in certain circumstances, shifts the burden of proof from applicant to respondent in claims for damages from illegal strikes or lockouts.

The unions felt that this measure particularly could cripple them and, as a result, had threatened not to assist in settling disputes.

The second change centres on more flexible time limits for settling disputes, at the level of industrial councils and conciliation boards, before resorting to the Industrial Court. The Act currently places a 21-day limit, after which deadlocked disputes must be referred to a board or council.

Manpower Department sources declined to say anything more, as the Bill was still with legal advisers for "certain adjustments" and because it is yet to go before parliament and the standing committee.

NMC chairman Frans Barker points out that the commission is still busy gathering submissions for a totally revamped Labour Act later this year or early next year.

The January 10 deadline for proposals by interested parties has been extended to accommodate individual cases.
Hopes for industrial peace fade

Proposed changes proposed for the new

LABOUR ACT CHANGES PROPOSED

BY EDDIE KOCHE

The unions are not permitted to

Creating a national law that will

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THE labour movement garnered the first fruits of its Labour Relations Act campaign this week, with the disclosure that the Government is to drop some of the Act's controversial provisions.

The amending Bill is based on last year's National Manpower Commission inquiry, which was clearly influenced by the "Saccola talks" between employers and Cosatu/Nactu on the LRA and 18 months of massive worker protest.

Unions saw the controversial 1988 amendments to the LRA as an attempt to weaken them and undermine industrial action. Two general strikes, a consumer boycott and a national overtime ban were the result.

The Cabinet still has to consider aspects of the Bill and further changes are possible, says manpower director-general Mr Joel Fonnie. But the aim is to enact it during this session of parliament.

**Liability**

The key proposed change is the effective scrapping of section 79(2) of the LRA, which shifts the onus of proof on to unions facing damages actions arising out of illegal strikes. The section has never been used, but unions feared it could expose them to crippling damages claims.

In what is seen as a sop to conservative white unions who wanted 79(2) retained, government drafters have left the rump of the clause, which creates a statutory liability for damages. Lawyers say that it is largely symbolic. As employers have a common law right to sue for strike damages,

The Bill also relaxes the time limits in statutory dispute-settling procedures. Labour lawyers believe time limits should be altogether scrapped as a technical obstacle to dispute settlement, but view the change as a positive step.

**Changes minor**

A final revision extends the "cooling off" period between the referral of a dispute to an industrial council and a lawful strike ballot.

In terms of the labour movement's overall complaints about the LRA, the changes are minor. In the Saccola talks, unions have demanded sweeping changes to the legislation.

These include the granting of union rights to the public sector, domestic and farm workers, one labour law for South Africa and the homelands, immunity of legal strikes from interdicts and the reframing of the unfair labour practice definition to exclude sympathy strikes and intermittent strikes on the same issue.

The National Manpower Commission last year called for representatives on a planned revamp of the entire LRA, and the unions aim to influence the reshaping of the law through the powerful employer lobby.

To the extent that the current Bill reflects employer-union consensus in the Saccola talks on both 79(2) and the issue of time limits, the strategy has paid dividends.

**Interdicts**

But agreement on the central issue on central union demands will be more problematic if and when the talks, which are currently stalled, resume.

Employers are known to believe that the interdicting of strikes is sometimes necessary, although they concede that the Industrial and Supreme Courts often grant orders in non-urgent circumstances.

Sources say they favour a tightening of court rules for the granting of urgent relief.

Measured against trade union demands, impending changes to the Labour Relations Act revealed this week mean very little. Rapid progress in union-employer talks on the Act seems the only way further mass unrest over the legislation can be averted, reports DREW FORREST.

On the unfair labour practice issue, employers agree the current definition is too rigid, but favour a partial codification, which would take account of such concepts as irreparable damage through strike action.

**Consensus**

Although Saccola has said it favours union rights for all, it has qualified this by saying they should reflect the economic and structural circumstances of the sector concerned.

And while agreeing that labour law in South Africa and the homelands should "reflect common principles", it has said that employers must operate within existing law.

Some observers are pessimistic about the unique Saccola process, saying conflicting employer and union interests preclude consensus on key issues.

They believe the current Bill essentially addresses the concerns of employers, who had come to see 79(2) and the time limits as counter-productive.

But the talks may be the only way further mass worker action around the LRA, threatened by the unions late last year, can be averted.
Cosatu scornful of labour Bill

CASATU yesterday described the new draft Labour Relations Amendment Bill as "another example of state blundering" because of both the process of its creation, and some of its contents.

The proposed changes, introduced without taking account of issues repeatedly raised by Cosatu and the rest of the trade union movement, would only exacerbate tensions at the workplace, a statement said.

In Cosatu's view, it was the principal industrial relations actors — organised business and labour — who should devise new labour legislation.

On the Bill itself, Cosatu said besides the relaxation on time limits (for processing disputes through official channels) and the changes to section 79(2), many of the other provisions were "unacceptable, retrogressive and fall far short of what has been demanded by the union movement".

Section 79(2) relates to the ones of proof in cases of damages suits.

Cosatu said that in some respects, the proposed changes went well beyond the issues considered by the unions and employer federation Saccola.

A particularly unacceptable example, the federation said, was the extension of the "cooling-off period" from 30 days to 45 days. That is the period between referral of a dispute to an industrial council or conciliation board and the time workers may lawfully go on strike.

Saccola's enthusiasm for the proposed changes raised doubts as to their sincerity about wishing to negotiate an acceptable Labour Relations Act.

"If the state and employers continue to adopt this attitude, it would seem that nothing has been learnt from the past Consensus on labour legislation requires the full involvement of Cosatu and other unions as well as the employers. For the state to ignore this will only lead to more conflict," the statement concluded.

A Cosatu source said yesterday the organisation had not yet decided whether to make submissions to the National Manpower Commission on the investigation into consolidating the Act.

Meanwhile, Cosatu and Nactu yesterday wrote to Saccola asking for detailed employer views on aspects of the Act, including urgent interdicts, unfair-labour practices, and the status of public-sector, agricultural and domestic workers.

The Federation of Salaried Staff Associations of SA yesterday confirmed its support for the amendments.
LRA draft changes will ‘worsen tensions’

By Drew Forrest

Draft changes to the Labour Relations Act failed to take account of concerns repeatedly voiced by the labor movement and would exacerbate workplace tensions, the Congress of SA Trade Unions said yesterday.

And, it added, the South African Consultative Committee on Labour Affairs’s (Saccola) support for the changes raised the question of whether it was in cabots with the Government.

At the same time, Nactu leader Mr Cunningham-Ngukana warned that workers were preparing for further mass action against the LRA. Union plans were linked to progress in forthcoming talks on the Act with Saccola, he said.

Cosatu said unilateral changes that did not take account of the labour movement would not bring industrial peace, and it called for full union involvement in rewriting the Act.

Besides the revision of Section 79(2) of the Act and time limits for dispute resolution, other provisions fell short of demands. The planned extension of the “cooling off” period before a legal strike aimed to restrict workers, it said.

Mr Ngukana said the Bill failed to address union demands on issues such as the definition of unfair labour practice, interdicts against strikes and long delays in appeals.
By Harvey Tyson

The Star and its Code

The last few years can be termed a period of intense activity for the unions and their workers. The labor market has seen significant changes, especially in the way collective bargaining is conducted. The unions have been working hard to protect the rights and interests of their members, and there has been a significant increase in the number of strikes and lockouts in recent years.

In the world of labor relations, there is a need to strike a balance between the interests of employers and employees. The labor laws have evolved over time to accommodate these interests, and there is a growing recognition of the importance of labor negotiations.

The labor movement has always been a force for change, and it has played a critical role in shaping the labor laws in Canada. The labor laws are designed to protect the rights of workers and to ensure a fair and just workplace environment.

In recent years, there has been a growing concern about the adequacy of the current labor laws. There have been calls for reforms to address some of the issues that have arisen in the labor market. These reforms are aimed at ensuring that the labor laws are up-to-date and effective in protecting the rights of workers.

In conclusion, the labor laws are an important part of the social fabric of a country. They are designed to ensure a fair and just workplace environment, and they play a critical role in shaping the labor market. The labor movement has always been a force for change, and it has played a critical role in shaping the labor laws in Canada. The labor laws are designed to protect the rights of workers and to ensure a fair and just workplace environment.

Report by: Alan Watson

Labour Laws: Unions still not happy

The government's new labor laws have not been well received by the unions. They feel that the new laws have not adequately protected the rights of workers. The unions have been working hard to protect the rights and interests of their members, and there has been a significant increase in the number of strikes and lockouts in recent years.

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LP moves to help farmworkers

Political Staff

THE Labour Party is to block all agricultural and manpower legislation until the government agrees to introduce legal protection for South Africa's farmworkers similar to that of industrial workers.

Five bills, due to be discussed in Parliament, will be immediately affected by the move.
Workers' Day will be May 1.

The public holiday commemorating Workers' Day this year falls on Tuesday May 1, not May 7 as some 1990 calendars incorrectly reflect.

The Department of Home Affairs had received many inquiries as a result of the confusion.

Mr Piet Colyn, director-general of Home Affairs, said in a statement:

'This misunderstanding can probably be attributed to the fact that some calendars were printed before Proclamation No 185 of 1989 on 27 October 1989 in terms of which Workers' Day is to be commemorated annually on May 1,' said Mr Colyn.

— Staff Reporter
Qualified but underpaid. According to national statistics, women make up 53 per cent of the population and 50.8 per cent of white-collar workers. Women with university and other degrees account for 61 per cent. However, 50 per cent of men with similar qualifications occupy managerial posts, while the ratio of women is only 7 per cent.

Even in sectors where women dominate employment equal pay remains a myth as wages and salaries are much lower than in sectors dominated by men. This is true for education (60 per cent), engineers (58 per cent), doctors (67 per cent) and economists (87 per cent).

Night shifts. Labour legislation specifically provides that women may only be put on night shifts as a temporary measure under exceptional circumstances. However, almost four million women now work on night shifts (double the number of men). According to Zoya Pukhova "ministries are moving so slowly to resolve this acute issue that even 50 years won't be enough for them to do the job, given their current pace."

No amelioration. Instead of alleviating the position of working women, economic reform has brought new problems. Productivity-related team contracts hit the most unprotected part of the work collectives—mothers with small children. With the current contraction in the workforce they are the first to be made redundant.

Estimates by women economists show that women will make up 15 million of the 16 million expected to be made redundant in the next eight years of structural adjustment. Flexible working time schedules and part-time job provisions are proving ineffective. When the law allowing women to work part-time was published, the proviso "subject to administrative approval" made it practically ineffective. Managers did not want the administrative complications.

Need for affirmative action. There is no machinery, says Zoya Pukhova, that would guarantee women social protection and monitor the observance of labour legislation. The Soviet Committee responsible for women's questions has called on the Government to include a special affirmative women's component in the comprehensive social development programme under preparation. New thinking calls for a new approach to the promotion of women to managerial and executive positions throughout the country.

Source
MS Garbinder Perestroika novaya mithorie (Eka nasher strany) vuge mraj (Moscow), 1987, 270 pp
Fravda, 28-30 Jun, 1 5 July 1988
Lvova (Moscow), 5 Mar and 23 Oct 1988
Moscow News (Moscow), 12 June 1988 and 28 Jan 1989
Rabotnitsa (Moscow), Nos 4, 7 and 11, 1988

SOUTH AFRICA

Labour Relations Act: "broad" opposition by unions

The Labour Relations Amendment Act has generated fierce controversy between the employers, who give it broad support, and the trade unions, who see it as a blow to their rights. It led to a massive three-day national protest from 6-8 June 1988, in which an estimated 2.5 million workers participated each day.

At the same time, discussions held between the unions and the South Afr... Employers' Consultative Committee on Labour Affairs (SACCOLA), which represents some 90 per cent of organised commerce and industry, resulted in several amendments to the Bill being agreed between the two sides. However, the Government pressed ahead with the Bill which was proclaimed on 12 August and became law on 1 September 1988. There can be no doubt that the legislation represents a radical reform of South African industrial relations.

COSATU—the 900,000 strong Congress of South African Trade Unions—had already submitted a complaint against the South African Government in accordance with the ILO’s freedom of association procedures at the end of May 1988.

Union complaint to the ILO. COSATU's objections to the Act, set out in a memorandum to the ILO, and supported by the National Council of Trade Unions (NACTU), were based on two main grounds: first, the preference the Government sought to give to racially constituted unions at the expense of non-racial unions, and second, the fundamental curtailment of the right to strike. According to COSATU, the ban against non-racial unions went against the recommendation of the commission of inquiry into labour legislation (the Wiehahn Commission—SLB 4/79, p 442, and 3/80, p 353).

Union registration. The provision under the Act stipulates that "in determining the representativeness of a trade union, the Registrar shall have regard only to the members of the objecting union who are eligible for membership of the applicant union."

This means, says COSATU, that if the applicant union is open only to Whites, the representativeness of the objecting union will have to be determined by taking into account only its White members, and unless the objecting union has a majority of Whites, the applicant union will be registered. The fact that the objecting union may be overwhelmingly representative of workers in the industry as a whole will not count for anything.

Freedom to strike. The unions also criticise what they see as a restriction on the right to strike under section 65 of the amended legislation. They are particularly critical of the fact that to the category of strikes absolutely
prohibited, the Government has added sympathy and secondary strikes as well as "repeat" strikes over any matter that has led to a strike in the previous 12 months. If unions contravene section 65, strikes expose the participants to criminal prosecution, civil claims for damages and dismissal. Under the previous law, legal strikers were given indemnity against civil liability. The unions submit that this amendment contravenes the fundamental freedom to strike and thus constitutes an illegitimate incursion into freedom of association and freedom to act collectively.

A more legalistic approach. The whole thrust of the new Act is that it moves away from emphasis on collective bargaining to a more legalistic approach. Under the previous provisions, once a legal strike or lock-out occurred, then both sides were left to resolve the dispute on the basis of their relative bargaining strength. Under the new provisions the industrial court becomes the "watchdog" of industrial relations and acts more as an adjudicator.

New labour appeal court. The Act includes a recommendation by the 1984 National Manpower Commission of setting up a new labour appeal court and defines its functions (SLB 3-4/84, p 574). It is this court, not the industrial court, that will now decide whether a strike is legal or not, on the basis of detailed codes covering "unfair labour practices". It will now, for instance, constitute an offence for employers to strike over the dismissal of a colleague because they are not "directly involved" in the dispute over the dismissal. Neither can male employees strike over the issue of maternity benefits because, not being female, they are indirectly affected by the dispute.

But far more important, as far as the unions are concerned, is that fact that having gone through all the legal motions for organising a strike, the court could nevertheless rule it "unfair". The fact that the court will also pronounce on the fairness of a lock-out does not, according to the unions, redress the balance as this is a weapon rarely used by employers.

The unions also feel that listing unfair labour practices is bad because it enables the minister to amend the definition whenever he chooses. The unions also fear the court is likely to be biased towards employers.

Employers’ position. SACCOLOA has given broad support to the legislation and did not agree that there is reason to believe that the courts will be prejudiced in their favour. It considered that the "fairness" of otherwise strike action should be determined by its relationship to the collective bargaining process and for this reason supported the provisions on "repeat" strikes and secondary action. In its view, the legality of sympathy strikes, for example, was a matter of intense debate among labour lawyers, but never the subject of a definitive court ruling. The promotion of consumer boycotts, now defined as an unfair labour practice, has in the past been prohibited as an interference with the right to trade. It was therefore a new factor in the balance of power between the two sides.

The employers considered that the Act, on the whole, had brought South African legislation broadly into line with international standards and codified existing court guidelines on the requirements for fairness for disciplinary dismissals. Procedural requirements with regard to the right to strike had been streamlined: this right is acquired 30 days after the statutory dispute-resolving mechanisms have been invoked, unless this period is extended by mutual agreement. Moreover, while the new labour appeals court might prolong legal proceedings, a specialised forum could only help in developing a consistent body of employment law.

An independent view. While labour lawyers are arguing the case for and against, an independent submission by Clive Thompson of the Labour Law Unit at the University of Cape Town took the view that the Act undermines established rights in the areas of unfair dismissal, collective bargaining and strike law. Furthermore, it was Mr. Thompson’s view that the Act contravenes ILO Convention No. 158 which provides that, if the employment of a worker shall not be terminated without a valid reason by permitting dismissal for no reason during the first six months of employment. Measures such as banning secondary strikes and undercutting the employer’s duty to consult with a representative union on planned reenforcement, also resulted in altering the balance of power between bargaining partners in favour of the employers.

Likely impact on industrial relations. Since the Act was passed, the unions have continued to express concern that employers would adopt Section 79 to make claims against them following work stoppages. Employers have been urged by the Institute for Industrial Relations to be cautious about this type of action as it will cause irreparable damage to the industrial relations climate. The new law appears to be designed to cut down “wildcat” strikes since it gives employers the possibility to sue unions engaged in such activities. Although the Act makes it possible for unions to sue employers where they are found to be acting illegally, the unions have made it clear that this will be like a double-edged sword than appears on paper. They do fear, however, that heavy damages claimed against unions could cripple union funds. While some changes in the Act are seen to be beneficial, COSATU and NACTU agree that the legislation is deliberately retrogressive and aimed at curtailing union growth. That view is held by the two unions, and is disingenuous for the Government to claim that the right to strike remains unaltered. While several major firms agreed with union proposals for amendments, employers as a whole gave the new Act their full support. The consequences of the Act could possibly be a worsening of the industrial relations climate throughout the country.

Source
South Africa. Labour Relations Amendment Act, 1988, Government Gazette (Cape Town), 13 July 1988, 83 pp (afpam)
Information received from the ILO Equality of Rights Branch
New Labour Act ‘should include all workers’

By DAVID YUTAR
Labour Reporter

FARM and domestic workers and State employees will have to be included in a future Labour Relations Act, according to a South African labour law expert.

Such workers are excluded from the present Act.

Mr Clive Thompson, director of the Labour Law Unit at the University of Cape Town, and a member of the legislative committee of the National Manpower Commission (NMC), was speaking on the future of labour relations.

He was one of four panelists at a seminar at the Mount Nelson Hotel this week forming part of a nationwide seminar on labour law, organised by Juta publishers.

Armscor

"In a changing society we must look towards an encompassing statute, one which includes state employees, domestic servants, farm workers, the lot," he said.

Employees dealt with by specialised statutes, such as Armscor employees and railway workers, needed to be brought together under one Labour Relations Act, Mr Thompson said.

"There may still be differential treatment. Some people will be regarded as essential and treated as such in terms of the Act’s provisions.”

He said that although trade unionism of domestic servants was difficult because of problems organising them, at least such workers would receive the “fundamental protection” of such legislation.

Mr Thompson also predicted a move “away from concentration on the unfair labour practice legislation with all its negative implications” towards what he termed a “more rights-based system.”

“A new Labour Relations Act would emphasise a charter of rights for employers and a charter of rights for unions and individual employees, that may not be abrogated.”

Change of style

In terms of such legislation, the concept of “unfair labour practice” would become a residual one in that it would be invoked where the charter of rights was lacking.

“It’s more a change of style but I think it’s an important one,” he said “Instead of having to go and claim some violation, and prove a negative, you would be asserting a positive right as one would do in respect of many constitutions.”

He said he felt the change would lend legitimacy to the new system of rights in a new Labour Relations Act.

Other changes Mr Thompson felt were needed were to bring “private processes” whereby parties contracted out of the Act, under its provisions as well as the denormalisation of strikes and the greater use of collective bargaining.

Other speakers at the seminar were Professor Halton Cheadle, Assistant Director of the Centre for Applied Legal Studies at the University of the Witwatersrand and Professors Adolph Landman and P.A.K. le Roux, both Professors of Mercantile Law at the University of South Africa.

Professor Landman is chairman of the legislative committee of the National Manpower Commission (NMC), which has been given the task of evaluating and making recommendations on the redrafting of the LRA.
Domestic and farm workers need protection in future

FARM and domestic workers and State employees will have to be included in a future Labour Relations Act, according to a South African labour law expert.

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He was one of four panelists at a Current Labour Law seminar held at the Mount Nelson Hotel in Cape Town on Wednesday. The event was part of a nation-wide seminar on Labour Law, being organised by a major publishing house in the coming week.

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Own Correspondent

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Prof Adolph Lenzman of the University of South Africa also addressed the seminar. He is chairman of the Legislative Committee of the National Manpower Commission (NMC), which has been given the task of evaluating and making recommendations on the redrafting of the LRA.

See more on page 18.
Numsa to continue legal battle

By Drew Forrest

The legal battle between the National Union of Metalworkers and Barlows Manufacturing Company, already the subject of industrial and Supreme Court action, continues.

Numsa announced last week that it is to appeal against a recent Supreme Court ruling in the case with vital implications for union rights in strikes.

The case originated in Numsa moves to mount strike action at BMC as part of the 1988 national metalworkers' strike.

Arguing that the dispute was between Numsa and the employer body Seifsa, of which it was not a member, the firm successfully applied for an interim restraining order from the Industrial Court.

The court later refused to confirm the order. But in a setback for the union, this was overruled by the Supreme Court last December.

Mr Justice R J Goldstone, with two judges concurring, confirmed that an industry strike can be legal. But Numsa is alarmed by another finding that a union cannot strike lawfully unless it has a reasonable chance of winning its demands.

In the latest edition of the influential Labour Law Briefs, experts argued that the judgment “loads the odds against the union” by imposing an unreasonable new requirement.
New LRA likely next year

Revamped law should be meet standards of the ILO - Thompson

Details have emerged of the National Manpower Commission's deliberations on the Labour Relations Act. These provide key pointers to the future shape of South African labour law. A SOWETAN CORRESPONDENT reports.

A fascinating peep into South Africa's labour relations future - free of illegal strikes and lockouts and where union and employer rights are protected in statutory charters - was afforded at Johannesburg labour law conference last week.

In a wide-ranging speech, a member of the National Manpower Commission's (NMC) legislative committee, labour lawyer Mr. Clive Thompson, gave details of debates under way in the NMC over the shape of a new labour relations statute.

Last year the Government instructed the NMC to reassess the Labour Relations Act, the subject of fierce trade union criticism.

Whether all its recommendations are enacted will depend on the political climate. But sources say many facets of the new law - which could reach the statute book next year - will reflect NMC thinking.

Hallmarks of an acceptable statute, Thompson said were that it would buttress collective bargaining and carry the broad support of the major actors - big business, trade unions and government.

Scrutiny

To this end, it was vital that the 'Saccta' talks between employers and the LRA were coordinated with the NMC's deliberations. And as South Africa's lawmakers would be under intense scrutiny in the months ahead, the law should also meet International Labour Organization standards.

Disputes

Also under discussion was the decriminalization of the statute, with strikes, lockouts, victimization and the breach of industrial council agreements no longer being crimes.

Strikes could be restricted to economic disputes, and banned in rights disputes, such as dismissals. Society should not have to bear the cost of rights disputes - over the interpretation of a law or agreement, as such were amenable to third-party resolution, he said.

Thompson said a key 'total' change could be a move away from the 'negative' unfair labour practice concept to a rights-based system where the employer, should have union rights, although differential treatment for essential services - specifically curbs on strikes - were likely to remain.

Sources say that of all the mooted changes, the elimination of firm and domestic workers under the statute poses the toughest political challenge. Government caution on the issue would be reinforced by a rightward swing among whites, they warned.

But the carrot is international acceptance. Thompson said the ILO - from which South Africa was ousted in 1964 - was looking for ways to play a part in a changing South Africa. Perhaps our readmission to the ILO is not so far off, he said.

Union rights

Industrial Court proceedings - and specifically the fact that a dispute could pass through up to seven hearings - were also under scrutiny. The plan was to reduce these to an initial hearing and an appeal.

Thompson said there was a 'strong line of resistance' - workers - to the new law.
The Argus Correspondent

JOHANNESBURG — Cosatu has proposed marches among workers and employers and the Government fail to meet Minister of Manpower's demands. The inside page of the pamphlet includes a list of demands that employers agree to a package of interim demands on labour law for all workers.
CAPE TOWN — Hillbrow MP Mr Lester Fuchs has asked a series of probing questions in Parliament about the court case in which a Piet Retief farmer was given a R100 fine for assaulting a crippled labourer who later died.

Mr Fuchs said yesterday that the Democratic Party was shocked by the death of partly paralysed farm labourer Mr Ekathi Xaba, who died after being beaten by his employer, Mr Wilhelm Rabe of Piet Retief.

Mr Rabe was fined in the Piet Retief Regional Court on February 12 this year. (i.e.)

Mr Fuchs said: "The tragic death of Mr Xaba and the circumstances which surround the assault on him by his employer raise certain questions:

(1) "Why were witnesses who were present at the time of the vicious assault not called to testify on behalf of the State?"
(2) "Why did the court find that there was no link between the assault on Mr Xaba and the cause of death?"
(3) "Why was Mr Rabe, who was convicted of assault, fined only R100?"
New assault on Labour Act

By CHIARA CARTER

COSATU is to step up protest action against the Labour Relations Act (LRA).

The union federation plans to hold mass rallies in all regions to discuss the anti-LRA campaign and to table workers' demands with the Minister of Manpower.

The Cosatu committee on the LRA met in Johannesburg this week and called for industrial area marches and other protest action if negotiations with the government and employers fail.

It has also called on workers to defy all court interdicts, place pressure on their employers to negotiate the LRA, and build solidarity with workers facing attack in terms of the Act.

Scraping

Cosatu wants employers from the public sector and agriculture to attend the negotiations talks which have been taking place between the employer body, the South African Consultative Committee on Labour Affairs (Sacola), and Cosatu, Nactu and independent unions.

Sacola and the trade union movement have reached broad agreement on the scrapping of a clause in the Act giving employers the right to sue unions, a change in the time limit on disputes, opening industrial court judgments to the public, and principles relating to retrenchment.

No agreement has been reached on interim interdicts, strike and solidarity action and the broadening of labour legislation to cover all workers.

Mandela unity call

RELEASED ANC leader Nelson Mandela called for trade union unity in a 30-minute meeting with a delegation from the National Council of Trade Unions (Nactu) this week.

Mandela told the delegation, led by Nactu president Mr James Ndaweni, that unity within the "free trade union movement" was "essential".

After the meeting, a Nactu spokesperson said the federation might meet with the ANC in Lusaka later this year.
A glimpse of future labour relations

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Last year, the Government instructed the NMC to reassess the Labour Relations Act, the subject of fierce union criticism, and interested parties have been invited to submit proposals for changes to the law.

Whether all its recommendations are enacted will depend on the political climate. But sources say many facets of the new law which may reach the statute book next year and could involve the most sweeping changes since the 1980s reforms - will reflect NMC thinking.

Hallmarks of an acceptable statute, Mr Thompson said, were that it would buttress collective bargaining and carry the support of the major actors: big and small business, trade unions and government.

To this end, it was vital that the "Saccoc talks" between employers and the LRA be co-ordinated with the NMC's deliberations.

And as South Africa's lawmakers would be under intense scrutiny in the months ahead, the law should also meet International Labour Organisation standards.

Isolating potential areas of change, Mr Thompson said the NMC was debating the final de-racialisation of the LRA.

One proposal was that race discrimination "at the port of entry" to employment should be banned. And union registration, which now takes account of racial interests, could be reduced to a simple process of certification similar to that in the Companies Act.

Also under discussion was the de-criminalisation of the statute, with strikes, lockouts, victimisation and the breach of industrial council agreements no longer being crimes.

Details have emerged of the National Manpower Commission's deliberations on the Labour Relations Act. These provide key pointers to the future shape of South African labour law, reports DREW FORREST.
Industrial Court president named

A new president of the Industrial Court has been appointed. He is a senior member of the court in Natal, Mr Dawie de Villiers.

The appointment of Mr de Villiers (58), an advocate for 15 years and a former magistrate, follows the death last week of the court’s acting president, Mr Pierre Roax SC.

The news of Mr de Villiers’s appointment was received with some misgivings within the labour fraternity yesterday.

“He is a likeable and fair-minded man, but his skills lie more in the arena of law than labour relations,” said University of the Witwatersrand law professor Mr Martin Brassey.

Top labour lawyer Mr John Brand said he was “very disappointed”.

“Given its vital role . . . the court needs a president with the stature of a Supreme Court judge,” he said.

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Sweet and sour

Businessmen hoping that political glasnost might translate into a more relaxed industrial relations climate were warned by a UCT seminar in Cape Town that 1990 would be exceptionally difficult one in labour relations.

But short-term difficulties are balanced by some reasons for optimism. Thompson noted that the International Labour Organisation was looking to play a role in SA. Local government: he highlighted two factors on the capital and labour front: the prospect that negotiated solutions may yet emerge from employer-union talks, and from government, a more sensitive approach under Prime Minister H. F. de Klerk and Manpower Minister E. Louw.

Thompson said the experience of the 1988 amendments showed it was crucial that a new labour statute — which is an early preparation — should carry all the major actors with it, including small business. It should also be clear and simple; supportive of collective bargaining as the best way of handling industrial relations; and consistent with world standards.

He singled out nine major issues which the Manpower Commission would have to address in preparing a new statute:

- A final derecognition of the statute;
- Abolition of the system of registration — “more Pretoria bureaucracy” — to be replaced by a less complex procedure;
- An introduction of a generalised duty-to-bargain with recognised unions (not a rigid rule, but merely direction on what is probably the situation at common law anyway);
- The statute must be “encompassing” — it should cover domestic, agricultural and State employees;
- A move away from the “unfair labour practice” system to one based more on rights. This would be essentially a style change that would see employers and employees “asserting a positive rather than proving a negative.”
- An effort to incorporate private processes — for instance, certain West German companies have arrangements with Unions which fall outside the Act;
- Strikes should be decriminalised. This would be a “modernisation and civilisation” of labour law;
- Societies shouldn’t have to bear the costs of some disputes. The right to strike should be limited to economic issues, and
- The Industrial Council system would need to be restructured.

Earlier in the seminar two interesting improvements were suggested to the way dismissals are handled.

Thompson addressed the concern that procedural issues are too dominant a factor in dismissals. He suggested that pre-disciplinary hearings should be abolished. He noted that they once served an important function, curbing management’s peremptory instincts, but that phase has now passed and they are "a financial burden to everybody."

Thompson conceded that the union would need to be more persuasive what they stand to gain from sacrificing two bites at the cherry. The scheme could be implemented only where there is consensus and mutual trust.

The other suggestion came from Wits professor Halton Chandle. He suggests that in cases where the risk of intimidation means secret witnesses have to be used — a device open to abuse — or where neither party wants to lead evidence, a preferable solution would be that both parties agree to appoint an inquisitor whose task is to find out the truth. The parties would agree to abide by whatever finding the inquisitor made. No lawyers would be involved.
As Mandela moves in, Relly moves out

By EDDIE KOCH

GAVIN "GR" RELLY bolted out as head of South Africa's most powerful corporation yesterday without finishing a job he started five years ago working for rapprochement between the African National Congress and captains of industry over the nature of a post-apartheid economy.

When Nelson Mandela rolled out the red carpet for Relly on Monday, there were many in the business community who believed that the meeting would be a repeat of the pioneering conference in Lusaka between the ANC leaders and big businessmen that the Anglo chief put together in 1985.

Before handing Anglo's reins to director Julian Ogilvie Thompson yesterday, Relly had clearly hoped to round off his career with another boost to the process of reconciliation between business and the ANC.

Instead both men emerged from the half-hour discussion at Mandela's home in Soweto frustrated that the meeting did not allow in-depth talks on key economic issues facing the country.

But on Monday, Mandela used the occasion instead to lobby Relly about a new approach to labour relations — and the agenda was shaped by the fact that labour leaders Cyril Ramaphosa and James Motlati were present throughout.

Both men are senior officials of the National Union of Mineworkers and clearly wanted the meeting to signal that the fight for more progressive labour legislation in this country was as important as the issue of economic reconstruction for South Africa.

The end result was that the talks were deflected away from nationalisation.

However, the talks about labour relations did not deal with substantive issues — such as the deep conflict between labour and organised industry over the Labour Relations Act — mainly because Mandela has not had time to familiarise himself with complex trade union developments that have taken place in the last decade.

Relly said that although the pair had not been able to discuss the post-apartheid economy, "the community and international community should not get into a flurry over nationalisation. These are issues that sensible men can discuss."

Relly's adviser Michael Spicer told the Weekly Mail both men had clearly felt the meeting "misfired." They were irritated because the shortage of time and the ANC leader's crowded programme on the eve of his departure for Lusaka did not allow in-depth talks on key economic issues.

"They emerged from the talks without having discussed anything substantial about the future of the economy," said Spicer. "Then when the press asked the big questions of the day both men had to trot out fairly standard positions."

Police stop thousands on strong teachers' march

By PHIL MOLEFE

THOUSANDS of black teachers from different Pretoria township schools were yesterday ordered to disperse by the South African Police when they attempted to march to the Department of Education and Training offices.

The teachers travelled from Mamelodi and Atteridgeville in buses and taxis and assembled at the Blood Street taxi rank from where they would have proceeded with the march to the DET head office in Schoeman Street. The march was planned for 10am.

Police barricaded Kruger and Boom streets alongside the taxi rank where the teachers had assembled.

According to Mamelodi Teachers Union member Square Khumalo, the police gave the teachers three minutes to disperse.

In Soshanguve, over 1,000 teachers, who had gathered yesterday morning at the local community hall, were told by senior policemen that they could not proceed to Pretoria to join their colleagues for the march because it was illegal.

Teachers defied the police order and attempted to proceed to Pretoria in over 50 taxis and private cars.

The procession ran into a police roadblock near the Soshanguve police station and was prevented from going ahead.

Several taxis and cars took another route via Hebron and Erasmusrus but again found that police had blocked the road.

See PAGE 9.
Vital talks between trade unions and employers on the Labour Relations Act are back on track after a three-month hiatus.

The chairman of the employer body Saccola, Mr Bobby Godsell, confirmed talks would resume on Thursday.

He also said that in line with a union request, Saccola had invited the National Manpower Commission, the Commission for Administration, SA Transport Services and the SA Agricultural Union to attend.

Last week, the Congress of SA Trade Unions wrote to Manpower Minister Mr Eln Louw proposing a meeting on the LRA. Unions want to meet him before Thursday, and are likely to urge him to ensure the attendance of employer bodies.

Cosatu/Nactu have consistently demanded one labour statute for all workers.

Also on the agenda will be new Saccola proposals on strikes and interdicts, including:

- The creation of an expert committee, representing unions and employers, to probe strike law here and abroad
- That Industrial Court interdicts against strikes should be subject to the same rules of urgency as the Supreme Court
CAMPAIGNS to improve transport and to strengthen civic organisations are among the decisions taken at the regional congress of Cosatu (Western Cape) last Saturday.

Workers experienced serious problems with trams, buses and taxis, the congress noted.

The federation wishes to meet Sats, City Tramways and taxi associations to discuss the issue.

Cosatu shop stewards are also to meet with civic organisations in the Western Cape to plan a joint campaign around community issues.

The decision was motivated by Cosatu's resolution last year to restructure the MDM and by severe problems, including crime and gangsterism, which workers are experiencing.

The congress resolved to make the LRA unworkable through the living wage campaign.

It called on the state to repeal the LRA and replace it with a "democratically-determined workers' charter of the masses."

The congress decided to defy the LRA by taking solidarity action, go-slow, bans on overtime, placard demonstrations and defying court interdicts.

The region is to prepare for the Living Wage/LRA congress to take place in May, by working out a programme of action to co-ordinate wage struggles, the LRA and workers' charter campaigns and build locals.

The region will also look at ways of linking up with the UDF under the banner of the MDM.

The congress passed a resolution endorsing the call by Nelson Mandela for peace in Natal and calling on people to build unity among the oppressed.

Delegates agreed to hold a special regional congress in late April, when office bearers would be elected.

A committee of secretaries from Cosatu affiliates is presently assessing the region. It will report its findings to the special congress.

The Cosatu regional secretary for the past four years, Mr Nic Henwood, indicated earlier this month he would not be available for re-election.
Board forced to suspend or curtail some services

Legal Aid cash-strapped

Lack of funds was the prime reason for denying a large number of citizens access to the courts, according to the Legal Aid Board’s annual report for April 1 1988 to March 31 1989.

The report, tabled in Parliament yesterday, said that while the board had been in a position to make accrued cash payments, this had been coupled with a curtailment of services.

The board had been forced to suspend legal aid for criminal and civil appeals as well as civil matters where the quantum of the claim amounted to Rand 2 000 or less for the year in review.

Restrictions

During this period no advocates had been instructed in the lower courts and no senior advocates in the Supreme Court.

Legal aid for Industrial Court actions had also been suspended between April 1 1988 and November 30 that year.

Divorce and related cases had been restricted on a legal aid tariff to a maximum of Rand 500 if one attorney was involved and Rand 1 000 if two attorneys were involved.

In addition, legal costs in respect of applications or petitions after imposition of the death penalty had been restricted on a legal aid tariff to a maximum of Rand 500 per application or petition, the report said.

The director of the Legal Aid Board, however, retained the authority in respect of all these suspensions and restrictions to grant legal aid in meritorious cases.

He could also instruct advocates and senior advocates to increase or remove restrictions.

The board had been forced to institute these restrictions and suspensions in an effort to stay within the appropriated amount from Parliament — Rand 12 million — and to avoid having to request more funds.

Applications for help increase

A total of 70 614 applications were received, of which 24 082, or 34.01 percent, were granted.

Refused cases totalled 13 232, while 22 166 were referred by mediation or referred to the State or other institutions. A further 11 134 cases were pending further investigation, or social work reports. — Sapa.

The activities of the board had increased annually and in these circumstances it was no longer possible to cope with the existing staff and methods, the report said.

Legal aid officers were located in Johannesburg, Pretoria, Germiston, Durban, Bloemfontein, Port Elizabeth, Athlone, Cape Town and Mitchells Plain.

The board was bound by financial obligations of about Rand 23 445 560. These had not been reflected in the balance sheet as cash settlements had not been required in the year concerned.

The board had been unable to recover Rand 258 036 in legal costs to which it was entitled, but Rand 223 115 had been recovered from successful or settled actions.

A further Rand 207 056 had been recovered from debtors.

There was still Rand 30 200 outstanding — but which could possibly be recovered — at the end of the year.

The demands for the board’s services would probably become greater.

Meaningless

Access to the courts would become of ever greater importance in the protection of human rights, since the mere existence of a legal right was meaningless without means of enforcing it.

It was common cause that a large number of citizens did not now have access to the law.

The first problem remained the lack of funds, the report said.

Although Parliament had drastically increased the funding of the board since 1985/86, this was not nearly enough.

It had to be realised that no reform — political or labour-related — could succeed unless the majority of the public experienced a just functioning of the law. — Sapa
SA farmworkers still lack legal protection

Labour Reporter

The lack of legal protection for farmworkers has once again been highlighted following ANC leader Mr. Nelson Mandela's condemnation of the exploitation of farmworkers. Speaking in Bloemfontein on Sunday, February 25, Mr. Mandela said: "The country recoils in horror at the repeated reports of farm workers being beaten to death by racist farmers."

He was referring to a finding by a Piet Retief magistrate that a farmer was guilty of assault following the death of woodcutter Mr. Ekhati Xaba on August 24 last year. The farmer was fined R100.

The Democratic Party and Lawyers for Human Rights have called for full details of the case and Transvaal attorney-general Mr. Don Brunette has asked for a copy of the record and will be calling the prosecutor for an explanation.

Farmworkers are not protected by labour laws with the exception of some clauses in the Machinery and Occupational Safety Act and the Workmen's Compensation Act.

"They are excluded from all other legislation," UCT's Labour Law Unit director Mr. Clive Thompson said last week.

A spokesman for the Stellenbosch Advice Office says most of the cases they deal with concern farmworkers being evicted from their homes after being fired by farmers.

The average wage in the area was between R20 and R40 a week and some farmworkers on some wine estates were paid up to R70 a week.

However, some farmers also provided free housing and in some cases rations for their workers, the advice office spokesman said.

On some Elgin apple farms, workers were being paid about R20 a week and received "very poor" rations.

Farmworkers' conditions of employment have long been a thorny issue.
The Chairman of the House of Assembly: The member for Ranfurly, Mr. C. J. B. William, in his opening remarks, said that the proposed resolution was a significant step in the development of the village. He expressed his confidence that the resolution would contribute to the growth and prosperity of the area.

[Discussion]

Mr. A. R. Brown, member for Cumberland, seconded the motion and emphasized the importance of the resolution in promoting economic development. He highlighted the potential for increased tourism and noted the strategic location of the village.

[Resolution]

The House of Assembly, on a motion presented by Mr. C. J. B. William and seconded by Mr. A. R. Brown, resolved that the proposed resolution be adopted to support the development of the village. The resolution was passed unanimously.

[Proceedings]

The meeting adjourned for 10 minutes to allow for the preparation of the agenda for the next session.
Accord on labour laws within reach

FAST-moving developments over the last few days have opened the way to an agreement between organised labour, management and government on mutually acceptable labour legislation in SA.

In the past few days employer federation Saccola has reached agreement in principle with Cosatu and Nactu on various changes to the Labour Relations Act (LRA), and proposed legislation based on these principles has been drafted.

And the office of Manpower Minister Efi Louw was in touch with Cosatu and Nactu yesterday to arrange a date, time and venue for a meeting between the parties to discuss the process of devising new legislation.

Saccola has also been invited to attend the talks, which could take place as early as Thursday or Friday.

One observer said the meeting would be the first at Cabinet level between government and the "organised left" in more than three decades.

A spokesman for Louw said the Minister was pleased the unions had approached him for a meeting, and he was looking forward to seeing them as soon as possible.

An employer said if all went well this process could lead to the formulation of SA's first "post-apartheid" legislation.

The first major breakthrough came during a 12-hour meeting between Saccola and the union federations which ended at 2am on Friday. The meeting agreed on various amendments to the Act, and appointed a legal committee to draft legislation based on the agreement.

Saccola chairman Bobby Godsill said yesterday the committee completed its task on Saturday. He had not yet seen the final product. The committee was also mandated to conduct a longer-term study of strike law.

It is expected the amendments to the LRA proposed jointly by Saccola, Cosatu and Nactu will be presented to Louw when they meet him.

A Nactu spokesman said yesterday the unions wanted to discuss with Louw the possibility of the proposed amendments being placed before the current sitting of Parliament.

They also wanted to discuss with him their views on the amendment Bill drafted late last year by the Manpower Department, and to express their dissatisfaction at not having been consulted on its details.

In general, the spokesman said, the unions wanted to discuss with Louw ways of ensuring that government took their views into account when new labour legislation was developed in future.

The unions had set aside their traditional reluctance to speak to government because "we have to bring this matter to a finality and a meeting offers an opportunity to do so."

The unions were highly critical of one aspect of government's draft Bill, a clause which would lengthen from 30 days to 45 days the "cooling-off" period during which legal strikes could not occur.

The Manpower Department has indicated it would be willing to hold back the Bill's tabling in Parliament.

Godsell said the two proposed pieces of legislation needed to be integrated. Apart from the extension of the cooling-off period, there was no conflict between the two and employers were willing to recommend the retention of the existing law in this respect.

The government Bill also proposes the scrapping of the controversial Section 79 (2) which relates to union liability for damages sustained in unlawful strikes, and extends the time limits for processing disputes through official channels. Both are high on the list of union grievances.

While details of the Saccola/union proposal were unavailable yesterday, the issues raised included limits on interdicts against lawful strikes.
Govt to meet with unions, management

Way cleared for changes to LRA

Own Correspondent

JOHANNESBURG — Fast-moving developments in the last few days have opened the way to an agreement between organised labour, management and government on mutually-acceptable labour legislation in SA.

A prominent employer spokesman said if all went well this process could lead to the formulation of SA’s first set of “post-apartheid” legislation.

In the last few days, employer federation Saccola reached a principle agreement with Cosatu and Nactu on various changes to the Labour Relations Act (LRA), and proposed legislation based on those principles has been drafted.

And the office of Manpower Minister Elie Louw yesterday exchanged several communications with Cosatu and Nactu aimed at finalising a date, time and venue for a meeting between them at which the process of devising new legislation would be the main agenda item.

Saccola has also been invited to attend the meeting — which could take place as soon as Thursday or Friday.

One observer said the meeting would be the first cabinet-level meeting between government and the organised left in more than three decades.

The first major breakthrough came at a 12-hour meeting between Saccola and the union federations which ended at 2am on Friday. The meeting agreed on various amendments to the Act and appointed a legal committee to draft legislation based on the agreement.

Saccola chairman Bobby Godsell disclosed yesterday the committee completed its task on Saturday, although he had not seen the final product. The committee has also been mandated to do a longer-term study on strike law — an aspect of the LRA mostly not covered by the union/Saccola agreement.

It is expected that the amendments to the LRA proposed jointly by Saccola, Cosatu and Nactu will be presented to the Minister when they meet him.

Cosatu and Nactu proposed meeting Louw in a letter written to him last month.

A Nactu spokesman said yesterday the unions wished to discuss with Louw the possibility of the proposed amendments being placed before the cur-

He said they also wished to discuss with Louw their views, the amendment Bill drafted late last year by the Manpower Department (whose details were published by Business Day in January), and express their dissatisfaction at not having been consulted on its details.

In general, the spokesman said, the unions wished to discuss with Louw ways of ensuring government took account of their views whenever new labour legislation is developed in future. They also wanted to discuss the problem of non-participation by State and agricultural employers in the talks with Saccola.

The Nactu spokesman said the unions had set aside their traditional reluctance to speak to government because “we have to bring this matter to a finality and a meeting offers an opportunity to do this.”

The unions previously criticised the government’s draft Bill because they had not been consulted on it. They were also highly critical of one aspect of the Bill — that which would lengthen the “cooling-off” period during which a legal strike may not occur from 30 days to 45 days.

The Manpower Department has indicated it would be willing to hold back the tabling of the Bill in Parliament.

Godsell said the two proposed pieces of legislation needed to be integrated. Apart from the extension of the cooling-off period, there was no conflict between the two, and employers were willing to recommend the retention of the existing law in this regard.

The government Bill also proposes the scrapping of the controversial section 79 (2) which relates to union liability for damages sustained in unlawful strikes, and extends the time limits for processing disputes through official channels — both high on the list of union demands.

While details of the Saccola/union proposal were unavailable yesterday, the issues raised include limits on interdicts against lawful strikes, scrapping of racial features of the union registration process, and accessibility of Industrial Court judgments.
Historic meeting to tackle LRA

Bosses, unions to work out new deal

By Drew Forrest

In what could herald a new era of tripartite co-operation in labour matters, employers are to join black unions at a historic meeting with Manpower Minister Mr Eli Louw this week.

The meeting, over the Labour Relations Act (LRA), will be the first between an organised formation of the left and a Minister. It will also be the first joint forum of the state, employers and black worker delegates.

Legislative force

It follows a breakthrough in two-year-long negotiations on the LRA between the employer body Saccola and Cosatu/Nactu last week.

Describing the developments as "an enormous step forward", Saccola chairman Mr Bobby Godsell confirmed Saccola would join Nactu and Cosatu at the meeting with Mr Louw in Pretoria on Thursday.

Nactu's Mr Cunningham Ngukana said the unions would urge Mr Louw to give legislative force to their agreement with employers.

They would also ask him to ensure the National Manpower Commission inquiry into labour law was co-ordinated with the Saccola process, and that the public sector employer, the Commission for Administration, attended future Saccola talks.

The Government has already announced that LRA changes planned for this session of parliament have been put on hold in anticipation of the meeting with Mr Louw.

Unions and employers were tight-lipped about their interim deal, but it is understood that the drafting committee sat all Saturday and that an agreement may be finalised within days.

Sources said it would address the seven unions' demands listed in a recent Cosatu pamphlet.

These included the scrapping of a section broadening union exposure to lawsuits, the relaxation of time limits in dispute procedures, the automatic publication of Industrial, Court judgments, the right to solidarity strikes and one labour statute for all workers.
Militancy disrupts workplace

INCREASED militancy since the unbanning of political organisations and Nelson Mandela's release has caused confusion and uncertainty in the workplace, labour sources say.

Some employers are already examining the implications of political developments which have heightened worker expectations and seen a "new-found confidence" which is likely to be displayed at the negotiating table.

National Union of Metalworkers of SA (Numsa) engineering secretary Bernie Farnaroff says a consequence of political developments is that union activists are having to spend time in townships dealing with macro-political issues. This means less planning in the workplace and more spontaneous action.

Sharing

"Workers feel liberation is imminent, causing increased militancy."

He says worker demands are changing and this is witnessed in a demand for the sharing of the economy.

OK Bazaars industrial relations executive Gavin Brown says the impact of political developments on the workplace is characterised by uncertainty and confusion and unrealistic expectations which still have to be manifested in a tangible form.

Companies, he said, are responding with more tolerance and sensitivity, but this is not part of a long-term policy.

He believes political developments will affect wage negotiations with heightened worker expectations of greater increases.

National Union of Mineworkers (NUM) assistant general secretary Marcel Goldberg says workers realise it is their right to participate in democratic organisations of their choice.

They believe this right has to be freely expressed, putting the spotlight and pressure on employers to put "their houses in order".

Recent NUM members' activity in the Free State illustrates the continuing demand for the removal of discrimination on the mineworks.

Goldberg says, "We are no longer at the level of tabling demands which remain unaddressed. Workers have repeatedly tried to use the grievance procedure without success."

"Workers expect the right to organise on the mineworks where employers have used their property rights to restrict them."

Chamber of Mines president Kennedy Maxwell says "it is vital the parties work together to seek potential solutions," particularly in the mining industry where recent developments are cause for concern.

He says, "It appears there has been a deliberate attempt to create polarisation (between workers and management) and prospects for a favourable outcome to future negotiations will be reduced if parties enter the exercise from positions of polarisation."

An article in the February issue of Safety News lists employer guidelines on how to manage "the impact of the events which have created conflicting emotions in the labour force ranging from jubilation and raised expectations to anxiety and concern."

Implications

It states worker reaction to the developments can generate anxiety among other sections of the workforce, leading to confrontation and violence.

Employers are advised to consider the implications of implementing disciplinary action, which should be avoided wherever possible.

Industrial Relations Consultant Andrew Levy said worker expectations had risen and they had been shown that all was negotiable.

"Trade union's will push against the door which is swinging open and one can only speculate there will be an increase in industrial action," he said.
Most white unions favour May 1

Only one of 16 white trade unions – the White Mineworkers Union – had been against May 1 being declared Workers' Day, Minister of Manpower Mr Elsie Louw said yesterday.

Speaking in the Assembly during an interpellation debate, he said the National Manpower Commission had always been in favour of the move.

Mr Arre Paulus (CP Carletonville) said white unions had not been acknowledged in the decision.

Mr Brian Goodall (DP Edenvale) said Workers' Day was celebrated on May 1 in countries such as West Germany and France. The law had now been brought into line with reality.

The previous situation was that Workers' Day had been celebrated on two days by different groups, and South Africa could not afford that.

Mr Louw said it was a pity the CP was trying to "catch political flies" on the issue.

The CP wanted to protect the white worker, and would do so, Mr Paulus retorted.

Mr Louw said white SA unions could play a big role in, for instance, enhancing productivity.

It had been calculated that every workday lost cost SA about R400 million a year. — Sapa
Johannesburg - The Chamber of Mines yesterday accused the government of seeking to reintroduce racially discriminatory regulations on the mines - an attitude which "flies in the face" of official government policy.

Chamber vice-president Mr Chive Knobs was commenting after the Appeal Court yesterday granted the Minister of Economic Affairs and Technology leave to appeal to a Full Bench of the Transvaal Supreme Court against an order that declared part of the Mines and Works regulations invalid.

The part involves latrines and change-houses.
Union federations meet Louw today

A MEETING between SA's two largest union federations — Cosatu and Nactu — and Manpower Minister Ett Louw is scheduled to take place at 3.30pm today. 

Plans for the meeting, which could lead to extended negotiations on new labour legislation for SA, were finalised yesterday.

Representatives from employer federation Sacola would not attend as originally planned.

A spokesman for Louw said this was at Louw's request.

He felt that since this was his first meeting with the two union federations, he preferred to meet them on their own, and would be willing to have a three-way meeting with Sacola at a later date.

Louw's spokesman said the minister saw today's meeting mostly as an opportunity to get to know union representatives.

As far as he was concerned, the agenda should be open.

Louw did not intend putting anything specific on the table, but wanted to ascertain the unions' views on various issues.

Cosatu and Nactu, in their letter requesting the meeting, said they wished to discuss with Louw pending draft amendments to the Labour Relations Act, the possibility of other amendments being passed during the current parliamentary session, and inclusion of state employers in future talks on labour legislation.

A Cosatu spokesman said yesterday a draft agreement between the union federations and Sacola had been prepared by a technical committee.

However, settlement would be reached only once the draft had been approved by the parties involved.
THE right to strike is fundamental to sound industrial relations.

The right and capacity of a trade union to bring workers out on strike may ultimately be the only reason why a manager sees genuine agreement with organized labour.

Without the right to strike, trade unions become powerless, and the rule of management is absolute.

The right to strike requires more than freedom to withdraw labour. It requires job protection as well.

While such a right does strengthen the entrepreneur's right to manage his enterprise as he sees fit, guaranteeing the right to strike is not a source of anxiety.

To some, the need for labour legislation and for any individual to do as he pleases, in order to advance his economic welfare, is an impossible anomaly.

It is the sort of belief which in states and legitimizes the smashing of machines and the burning of factories.

If there are no laws to protect workers, then there is no need to strike, and there is no anxiety. But it would be unwise to enterprises that rely on skilled labour to dictate to workers what they want to do and how they want to do it.

Finally, the right to strike is vital to any system of free collective bargaining, necessary to ensure the free distribution of economic rewards, and an organized and relatively orderly industrial procedure.

The interests of capital are protected by a range of laws. If rules exist to protect the interests of property, why not protect labour?

The right to strike provides a fair balance between the many legal protections which an employer enjoys, and the very basic rights which workers require to have effective trade unions.

It is not enough to merely have the right to strike. Workers should be able to strike without fear of dismissal.

It is often argued that a strike for an indefinite period means the employers face two chances to close down the business or take on a replacement workforce.

If an employer says he has no alternative but to escalate in an adverse permanent workforce, he should have to prove this.

The right to physical resistance would act as a powerful deterrent on employers and would limit dismissals to those instances where there is genuinely no alternative.

There has been much discussion about the right of workers to protect themselves in a secondary and sympathy strike.

Normally a primary strike in a labor union company involves the legal form of a registered company.

This encourages the fragmentation of an operation into a series of separate companies.

A textile mill with spinning, weaving and finishing operations, producing a single product may easily be broken into separate companies.

This means that the employers can avoid the power of combination by the workers.

In the case of industry-wide strikes, the employers are members of an employers' association in the industrial council, the primary employer and the only barrier.

NUM general secretary, Cyril Ramaphosa, and trade unions demand worker's rights.

The law should guarantee certain basic strike rights in the interests of better industrial relations.

EBRAHIM PATEL, education officer of the South African Clothing and Textile Workers' Union, argued in a talk delivered at a recent industrial relations workshop. Here is an edited version of the talk.

A basic strike is outlined on the basis of a series of separate companies.

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NUM general secretary, Cyril Ramaphosa, and trade unions demand worker's rights.
Unfair labour laws criticised

Job reservation retarded for more than 20 years the development, progress and earning capacity of black people, the Budget Review said.

"Viewed from the perspective of the utilisation of labour as a factor of production, certain past discriminatory practices contributed to the backlogs still found in some fields today, and affecting our black people in particular," it said.

"Job reservation, thus, with its accompanying restrictions on training, retarded for over 20 years the development, progress and earning capacity of many."

The long prohibition on the ownership of land and property in certain areas had "militated against the possibility of accumulating fixed assets."

"This had a baseful impact on people's ability to build up capital and to enter the world of business."

It was in everybody's interest that more acceptable living standards should materialise quickly, the review said. — Political Staff

Historic' talks between Govt and unions

By Peter Fabricius
Political Correspondent

CAPE TOWN — The powerful Cosatu and Nactu federations met the Government for the first time here yesterday in talks described as historic.

The union bodies and the Minister of Manpower, Mr Eli Louw, issued a joint statement afterwards, saying the talks had been fruitful and committing themselves "to reaching the broadest possible consensus on future labour legislation."

Mr Louw agreed to consider urgently the draft agreement on changes to labour law negotiated recently between Cosatu/ Nactu and the employer body Saccola.

The statement said it had been agreed that a further meeting including Saccola should be held to discuss the proposed amendments to the Labour Relations Act.

The draft proposals by Cosatu, Nactu and Saccola are believed to include measures limiting unions' liability to legal damages arising from strikes, and proposals that all workers should enjoy union rights.

Mr Louw has agreed to arrange a meeting between Cosatu, Nactu and the Minister of Administration, Dr Wim de Villiers, to discuss their call for union rights for public servants.

Mr Louw also agreed to convey to the SA Agricultural Union the request for a meeting with Cosatu/Nactu to discuss labour rights for farm workers.

He agreed that "all workers should have basic worker rights, which must be negotiated."

The Minister also agreed to convey the unions' proposals for direct negotiations between them and the appropriate authorities on the current disputes in the health and prison sectors.

See Page 10.
Minister to revise Labour Act after joint talks

BY EDIE KOCH

MinPOWER: Minister says Labour Act will be revised after joint talks with employers.
Louw, unions seek consensus

By BARRY STREEK
Political Staff

YESTERDAY's first meeting between a cabinet minister and South Africa's two largest trade union federations, Cosatu and Nactu, resulted in agreement that all workers should have basic worker rights which had to be negotiated.

In a joint statement last night they also committed themselves to "reaching the broadest possible consensus on future labour legislation."

The conciliatory tone of last night's statement indicated a significant breakthrough after years of often acrimonious conflict between the government and black unions.

They agreed to hold further discussions on thorny issues such as privatisation, deregulation, inflation and work-place violence.

All parties said after yesterday's meeting between Minister of Man-power Mr Elie Louw and representatives of the Congress of South African Trade Unions (Cosatu) and the National Congress of Trade Unions (Nactu), that discussions on proposed legislation were "fruitful."

The joint statement said the draft agreement negotiated between between Cosatu/Nactu and the employer body, Saccola, would be submitted to the minister as soon as possible and after this Mr Louw would refer it to the National Manpower Commission.

The minister will then give the NMC's proposals priority attention and endeavour to put them through Parliament in the current session.

Mr Louw also indicated he would "facilitate" a meeting of the unions with the relevant minister on the issue of the public sector and convey "an urgent request" to the South African Agricultural Union to discuss labour legislation covering farmworkers.

"All parties agreed that all workers should have basic worker rights which must be negotiated."

"They also agreed there should be a further meeting with Saccola present, to discuss proposed amendments to the Labour Relations Act."

"On the present disputes in the health and prison sectors, the minister will convey the proposal for direct negotiations between the responsible authorities and the trade unions concerned."

"The parties exchanged preliminary views on a range of issues relating to privatisation, deregulation, inflation and work-place violence and agreed that these will require further discussion," the statement said.
Unions meet Minister

Accord calls for changes in labour Act

By Drew Forrest

Sweeping interim changes to the Labour Relations Act — including the scrapping of the present unfair practice definition and curbs on strike interdicts — are proposed in a draft agreement between the labour movement and employers.

The accord also embodies a set of union and employer rights, drawn from the Wiehahn Commission, in which it is agreed that farm, domestic and state employees should be covered by labour law.

A key proposal

The product of two years' debate between Cosatu/Nactu and the employer body Saccola, the accord still has to be ratified by members.

But sources said the plan was to present it at a joint meeting with Manpower Minister Mr Elie Louw for enactment during the current session of Parliament.

The unions put their demands on the LRA at a groundbreaking meeting with Mr Louw yesterday.

A key proposal in the agreement, details of which have been leaked to The Star, is the scrapping of the current unfair labour practice definition, which includes 'bans on sympathy strikes and consumer boycotts.

The parties propose a reversion to the pre-1988 position, when the Industrial Court had a flexible mandate to develop labour law by precedent.

And while the right to interdict illegal strikes remains, it is agreed that reasonable notice must be given, so that unions can oppose applications.

Other proposals are:
- The old unfair labour practice clause can be expanded to deal with retrenchments and dismissals, in line with International Labour Organisation principles.

Acceptable labour law

- Scrapping of most time limits in official dispute procedures.
- The automatic publication of Industrial Court judgments, subject to special application.

Sources stressed that the draft accord was only part of the unions' longer-term push for acceptable labour law.
Key agreement by the big unions
Thousands of Rand Water Board workers took to the streets of Johannesburg on Friday in solidarity with colleagues fired last year.

Water Board workers stage protest

By BONGANI HLATSHWAYO

MORE than 2 330 workers from the Rand Water Board toy-toyed in the streets of Johannesburg and at Faraday Station on Friday in solidarity with 370 fired workers.

The 370 workers, who were stationed at Suikerbos, were fired in November last year and had gone to the Industrial Court to hear their fate, but the case was postponed until July 7.

They are members of the Municipal, State, Farm and Allied Workers Union from Vereeniging, Swartkoppies, Village Main and Suikerbos.

The workers left Vereeniging on Friday morning in five bus loads, but only three made it to Johannesburg.

Two buses were turned back by police on the highway near Diepkloof, according to union general secretary Phillip Masa.

"A Sgt Selfontein from the Diepkloof Riot Unit told us people from Vereeniging needed permits when coming to Johannesburg. We are still going to take it up with them," he said.

He said they had given management an ultimatum to reinstate the workers before March 5 or face strike action.

"Workers have now resolved to stage a sit-in until their fellow workers are reinstated. This is meant to put pressure on the Board to reinstate them pending the court hearing," said Masa.
Domestic Worker

As she falls foul of poor labour laws

BY SOPHIE TEMI

No Joy for Sacha

120

CITY PRESS, MARCH 18, 1990
Big changes proposed to ‘unfair’ labour legislation

ORGANISED labour and business is to propose to government a complete rewrite of the unfair labour practice (ULP) definition in the Labour Relations Act (LRA), a draft of an agreement between employer federation Saccola and Cosatu and Nactu shows.

They are also to propose drastic revisions to the Labour Appeal Court (LAC) system which has been criticised as unwieldy and staffed by persons often not knowledgeable in the field of industrial relations.

The draft agreement is still being finalised and has to be approved by the three organisations before it is presented to Manpower Minister Eliz Louw for his consideration.

Louw and the unions agreed the document — which could run to about 40 pages — should be handed to him as soon as possible, and Nactu acting general secretary Cunningham Ncukane said yesterday this would probably be early next month.

Should the LRA be amended along the lines proposed in the agreement, this would eliminate those amendments introduced in 1988 against which the two union federations have staged several protests in the last two years.

The changes would be of an interim nature, with Saccola and the union parties having embarked on a longer term study of certain aspects of the law, particularly those relating to strikes.

In the meanwhile, the redrafted ULP definition would effectively return to the Industrial Court the ability to decide on the fairness or otherwise of such actions as sympathy strikes, rolling strikes and consumer boycotts at present designated unfair by the current ULP definition.

This would occur by reinstating the pre-1988 ULP definition which gave the court broad scope to determine these issues which are now codified in the LRA.

The proposed definition would also declare dismissals unfair unless they were carried out with good and sufficient cause and in compliance with proper procedures. In the case of retrenchments, prior negotiation would be required.

Amendments to the status of the LAC would include returning it to the jurisdiction of the Manpower Ministry. The Manpower Minister would make appointments after consulting the National Manpower Commission.

The intention is to ensure labour specialists operate the court. The implication is that groups like Cosatu and Nactu would be willing to join the NMC so as to give themselves the consultative power to which the NMC would be entitled. The right of appeal to the Appellate division would be scrapped.

The court would be entitled to interdict unlawful strikes, but its ability to interdict lawful strikes would be limited to exceptional circumstances. Respondent unions would be afforded reasonable opportunity to oppose interdict applications.

The draft also proposes deletion of a clause which is said to give racially segregated unions the right to oppose the registration of non-racial unions.

The draft also makes easier the publication of court judgments.

It would also, as a draft Bill recently published by the department already does, delete section 79 (2) of the LRA which relates to union liability for damages sustained in unlawful strikes. It would extend time limits for the processing of disputes further than the Bill does.
An Introduction to Trade Unions

[Text content]
Unions back judicial ‘council spies’ probe

THE disclosure that a spy network had operated from the Johannesburg city council had seriously jeopardised council relations with the 13 trade unions representing more than 20,000 council workers, manpower director Jaap Kitzhoff said last night.  

He added that he had never received a report on union activities from the security department.

Town clerk Manie Venter has admitted that R17,000 from the security budget was paid to spies for information on political and trade union organisations to safeguard the city’s interests.

The Johannesburg Municipal Trade Unions’ Joint Committee held an urgent meeting yesterday to discuss the allegations that its activities had been monitored.

It supported calls by other organisations for a judicial inquiry.

“The relationship of mutual trust and understanding which existed between us and the city council has been shattered,”

Judicial probe  

the representative unions said in a statement yesterday.

Chairman Lorraine Lotter said the Johannesburg city council had experienced unprecedented labour peace over the past decade.

She said the committee abhorred the fact that it was considered to be within the investigation framework and objectives of the security department.

Meanwhile, city treasurer Willie Siebert said allegations that the security budget was R2.5m was rubbish.

He said R2.5m was allocated annually to the security department and his books were open to Business Day’s scrutiny.

In the House of Assembly yesterday, Budget and Local Government Minister Amie Venter said she had discussed the matter with the responsible MEC in the Transvaal, Olaus van Zyl.

Van Zyl had undertaken to give it urgent attention.

“We both regard this in a serious light and will treat it as a very urgent matter,” she said in reply to debate on the Local Government vote.

To Page 2
Unionists hold talks

The South African Commercial and Catering Allied Workers Union will hold a meeting of all the Johannesburg Stock Exchange workers at Oddee House, 442 Kerk Street, on Saturday March 24 from 10am.

The meeting will discuss Labour Relations Act in relation to JSE and the union membership.
Parliament in brief

LP firm on farm workers

The Labour Party decided yesterday that it would extend its refusal to pass any manpower and agricultural legislation until labour laws are extended to cover farm workers. The LP caucus said it would continue this strategy despite an appeal earlier this week by the Minister of Manpower, Mr Eli Louw, to end it.
Wiehahn to look at Ciskei

BISHO. — Ciskei's military government announced yesterday that it had appointed Professor Nic Wiehahn to investigate labour laws in the country.

The military ruler, Brigadier Oupa Gqozo, said his government considered the project as of “extreme urgency”, adding that Professor Wiehahn would start his task as early as next week.

Brig Gqozo said he had arranged with the South
March in Vaal

ABOUT 50 000 Vaal Triangle township residents are expected to march to the National Party offices in Market Avenue, Vereeniging, this morning.

Permission for the march, organised by the United Democratic Front, has been refused by both the Vereeniging town council and the town's chief magistrate.

Residents' grievances include the rent issue and the Labour Relations Act.

The march starts at the local showgrounds at 9am.
Scrap T'kei labour laws — Wiehahn

The development corporations in the six non-independent homelands spent R250 million in 18 months but only attracted investment of R421.7m.

In only one of the homelands — KwaNdebele — was more invested by South Africa and foreign companies than by the development corporations.

These details have been revealed in the replies given by the Minister of Development Aid, Dr Stoffel van der Merwe, in Parliament by the Democratic Party MP for Johannesburg, Mr Peter Soal.

In the period between April 1988 and September 1989, South African companies invested R376.3m and foreign companies R45.4m in the six homelands.

In KwaZulu, where the local development corporation spent R15.7m over the 18-month period, not a single South African company invested in the homeland and foreign companies invested a mere R3.8m.

Dr Van der Merwe also said there were 3 440 manufacturing concerns and 109 206 people employed in the six homelands, where the development corporations had invested R713.4 million — an average of R6 228 a job.

Having just tabled his 400-page report on Transkei, Prof Wiehahn has been appointed by Ciskei's military government to investigate labour laws in that country. Ciskei military ruler Brigadier OJ Gqozo said his government considered the project extremely urgent.

Trade unions operating in the country at present are doing so illegally and that all persons, including women, young people and the disabled, should be treated equally.

Other findings were:

— The rural economy should be developed by way of educational training and a financial programme.
— A small business sector should be encouraged and, if necessary, various existing laws scrapped to make that possible.
— The government should do everything to instil confidence and trust and dispel notions of political instability. This would attract international finance and development.
— The dormant National Manpower Commission should be revived to implement the commission's recommendations.
— The Labour Act of 1977 must be repealed and its objectives incorporated in occupational safety legislation.
— The government must be registered, officials must be fully accountable to members, and proper accounts be kept.
— Victims of employees by employers or vice-versa should be treated as a criminal offence.
Labour conference material ‘useful’

RYCROFT has compiled a collection of speeches delivered at the 1989 Labour Law Conference held in Durban - which provided some useful material for trade unionists and academics on issues affecting workers.

Among the issues dealt with at the three-day conference, was the role of industrial councils in dispute resolution and the part played by collective bargaining in industrial relations.

The conference was attended by 400 delegates - including lawyers, managers and trade unionists.

In his welcome address, Justice RJ Goldstone, said a meeting of management, academics and labour activists was conducive to a meaningful interchange of ideas.

Such a meeting, he said, contributed towards proper understanding of economic and political future of the country.

Delivering the keynote address, Professor Clyde Summers of the University of Pennsylvania Law School, dwelt on the nature of industrial relations in different parts of the world.

He said conflict between management and workers was an inevitable ingredient of the workplace.

Such conflict existed in every economic system - whether capitalist or communist.

He stressed however, the importance of collective bargaining in solving problems at the workplace.

"Collective bargaining reduces conflict over control who makes the decisions by providing workers a share in the control.

"It gives workers a voice in the decisions that affect their working life. Domination is softened by participation."

"Collective bargaining - by establishing a process for interpreting and implementing those rules - provides a system of industrial justice," Summers said.
Saccola favours new labour laws

EMPLOYERS hoped that any changes to
labour law proposed by them and two
labour federations would receive serious
and positive consideration by the
Government, a spokesman for the SA
Consultative Committee on Labour Af-
fairs says.

Writing in his organisation's report,
Saccola chairman Mr Bobby Godsell
said he also hoped talks involving the
employers' association, Nactu and
Cosatu would continue and "move
quickly" towards resolution of the dis-
puted clauses in the Labour Relations
Act.

He said Saccola believed it had
reached agreement in principle on four
issues. These were:

* Whether race should be a criterion
regarding union registration;

* Whether industrial court judgments
should be published more widely;

* Whether time limit should be legis-
latively prescribed regarding the industr-
ial council and conciliation board;

* Whether Section 79(2) of the Act
that presumed union liability regarding
actions of its members should be
retained.

Employers and federations were now
focussing on two other issues in their in-
terim "narrow agenda", Godsell said.
The two aspects were: "whether
employers and unions should have access
to urgent forms of court relief in the case
of a legal strike or lock-out; and how the
protection of legally striking workers
against dismissal should be provided by
law.

He said employers were concerned
when Cosatu and Nactu linked, "both in
time and subject", their anti-LRA
campaign to protest against the par-
liamentary elections on September 6 last
year.

"This linkage illustrates the problems
of the partial incorporation of black
South Africans into the economic, but no
yet into the political structures of
citizenship."
Dismissed union men go to court

By Drew Forrest

Chronic divisions within one of Cosatu's most important affiliates, the 80,000-strong Food and Allied Workers Union (Fawu), broke into the open last week when dismissed Cape Town officials applied to court for reinstatement.

Fawu's former Cape Town branch secretary, Mr Miles Hartford, and four others have asked the Cape Supreme Court for an order nullifying the "purported election" of a new branch executive on February 4.

They also want an interdict preventing the respondents, including new branch secretary Mr Edwin Sauti, from intimidating or assaulting them.

The hearing will be next week.

Sources say the conflict springs from attempts by the "populist" Fawu leadership to enforce a uniform political line. Cape Town workers carrying placards complaining of "Stalinism" had marched in protest against the dismissals.

Last year political rifts led to the dismissal of Fawu's Eastern Cape secretary, who set up an alternative union.

"Purges" of union employees have also been reported in the Johannesburg branch.
Labour Relations Act proposals up for public comment

The National Manpower Commission (NMC) legislation subcommittee today released its proposals for the consolidation of the Labour Relations Act.

The recommendations, which simplify the Act, will be open to public debate with the intention of inviting comment.

The report commissioned by Manpower Minister Ed Louw to investigate a revision of the existing law proposes the Labour Relations Act be extended to include the BRICS countries and the self-governing territories in anticipation of their reincorporation into SA.

The subcommittee has proposed the amendment of the Act to extend its application to include state employees, farm and domestic workers, and academics. Only SAP employees and state security personnel have not specifically been included in the proposal but the committee has suggested these employees be given trade union rights in terms of the Act.

It was recommended dispute procedures be simplified under the Act. Both parties may choose independent mediation or private dispute resolution procedures.

There should be a duty to bargain at the appropriate level. Strikes should be de-criminalised and regulated by unfair labour practice jurisdiction. Strikes on rights disputes including unfair labour practice disputes should be outlawed and protection be given to strikers who comply with procedures. Dismissal provisions of the Act should be simplified to follow the International Labour Organisation convention.

Restriction on trade union affiliation with political movements should also be scrapped.

The NMC should be reconstituted as the National Labour Council, which would be bipartisan – with state representation. Its function would be to formulate policy on all aspects of labour.
Guidelines for Cape coast get the nod

CAPE TOWN — The Cape Provincial Administration (CPA) has approved plans which will act as guidelines for future onshore developments along the Cape coastline and possibly deter controversial proposals like the recently abandoned Robberg Marina at Plettenberg Bay.

The structure plans have been released in five lengthy documents, each of which deals with a separate sub-region.

These include the west coast area from Veldrif to Bokpoort, the Cape Town coastline, the southern Cape area from Macassar to Gourits River, Outeniqua to Humansdorp and the area between the Gansbaai and the Great Fish rivers.

The aim of the research programme, initiated by the CPA four years ago, was to draw up guidelines to address the potential conflict between conservation of rapidly diminishing natural areas and pressure for township and resort development.

The guidelines were intended as a refinement of the CPA's 1973 Coastal Plan.

The plans provide a framework for the evaluation of applications and proposed developments by the private and public sectors. They do not refer to developments already under way.

The issues dealt with in the documents have become increasingly relevant.

Political changes have removed racial barriers in recreational areas creating more pressure for development in these areas, government decentralisation has placed more emphasis on private sector development for which central guidelines are deemed to be necessary and the west cape coastline has been pinpointed as a major future development area.

Manpower expects doubled workload

CAPE TOWN — New responsibilities, including the labour relations of commercialised public utilities, will virtually double the manpower Department's workload.

It's 1969 annual report, tabled in Parliament yesterday, says the department has taken responsibility for the Workmen's Compensation claims and occupational safety functions of Transnet.

"The takeover of functions will virtually double the workload, and the department, with its present staff and funds, will be unable to cope," the report says.

Another new responsibility resulting from economic changes concerns the small business sector. The National Manpower Commission began investigating the effects of labour legislation on this sector last year and an amending Bill covering technical adjustments is expected this year.

The department is reported to be keeping a close watch on provisions of industrial council agreements which could hamper economic activities.

Developments in the field of labour relations during the year include a review of section 78 of the Labour Relations Amendment Act, following criticism of certain provisions of the legislation, and the introduction of a labour code and guidelines for labour relations in the agricultural sector, drawn up by agricultural unions in consultation with the Houses of Representatives and Delegates.

The department expects the winding up of certain industrial councils to result in more applications for conciliation boards and the scaling down of employee fringe benefits from industrial council agreements.
Labour law set for significant changes

SIGNIFICANT changes to the Labour Relations Act (LRA) were proposed by the National Manpower Commission (NMC) technical committee in a 16-page document released yesterday.

A significant proposal is to widen the ambit of the Act to include domestic and farm-workers, state employees, academics and oil rig employees within the limits of SA territorial waters. These workers have never enjoyed protection in terms of the Act.

The proposals encompass major aspects of the Act including its scope of application, registration of trade unions, industrial councils and courts, strikes and unfair labour practices, but does not reflect suggestions on technical aspects of the Act.

Although not part of its mandate, the committee proposed that labour legislation in SA, the self-governing territories and the TBVC countries be "harmonised".

Among others, the goals of the proposed labour legislation should promote industrial peace, foster collective bargaining, protect freedom of association, simplify procedures and address the duty to bargain, the NMC said.

The NMC, commissioned by Manpower Minister Eli Louw to investigate a revision of the Act, has invited comment and public debate on the proposals and has suggested that May 21 to 25 be set aside for oral representations.

The proposals are independent of the draft agreement reached between employers' body Sacola, and two major black trade union federations, Cosatu and Nactu.

It was suggested certain sectors such as farm workers and domestic workers be included in principle but provision could be made in the Act to include them by proclamation.

Different parties should be allowed to agree on their own dispute resolution procedures. They should be able to choose independent mediation or private dispute resolution procedures.

 Strikes should be demisedified but regulated in terms of the unfair labour practice (ULP) definitions. Strikes on rights disputes including ULP disputes should be outlawed and strikers who complied with procedures should be protected.

Secondary industrial action should not be declared illegal. Instead, of a cooling off period of 30 days before the start of a strike, the NMC has proposed this be changed to 48 days. Employers' right to interdict strikes should be restricted.

The Act should impose a duty on the employer, if requested to do so, to bargain on appropriate matters with a union which is sufficiently representative.

The NMC committee was divided on the question of trade union registration.

One proposal was to retain the existing system but to make it compulsory and the other suggested "representativity" was relevant when a union sought to bargain, but not at the level of registration.

Agreement

A simplified certification process should replace complicated registration requirements - representation, gazetting and the noting of objections. Any union denied certification would have the right of appeal to the Industrial Court.

On the issue of Industrial Council agreements the NMC suggests provision be made in law for the Manpower Minister to consider the position of smaller businesses before signing an agreement.

The existing Conciliation Boards (CB) time limits should be abolished, but a dispute should still be referred within 90 days, a period which could be extended. The CB would have 30 days in which to attempt to settle the dispute.

There should be a single labour appeal court with no further appeal to the Appellate Division and trade unions should be allowed to affiliate to political movements.

It was recommended the NMC be reconstituted as the National Labour Council - a bipartisan body with state representatives enjoying observer status.
New LRA should be for all - NMC

CIVIL servants, academics, farmworkers and domestic workers should be covered in the revised Labour Relations Act, says the National Manpower Commission in a report released yesterday.

But the NMC report, which is open for public debate until May 18, says police and "security services" should be excluded from the ambit of the Act.

The right of employees in the two categories to establish a trade union could "possibly be provided for in the Act", says the report.

By LEN MASEKO

This is one of the proposals contained in the 16-page report compiled by the advisory body. The report does not include joint proposals of the SA Consultative Committee on Labour Affairs, Cosatu and Nactu - who still have to complete their draft agreement on the Act.

Meeting

Mr Cunningham Ngcukana, Nactu's acting general secretary, yesterday said his federation and Cosatu would seek a meeting with Saccola "possibly next week".

Cosatu spokesman Mr Neil Coleman said the federation would first study the report before reacting to its proposals.

Other NMC proposals include that:

* Strikes be decriminalised and regulated by unfair labour practice jurisdiction.
* The existing time limits for Conciliation Boards should be scrapped but a dispute should still be referred within 180 days which may be extended.
* Strikes on rights disputes - including unfair labour practice disputes - should be outlawed and protection be given to workers who comply with procedures; and
* The Act should force an employer to bargain with a sufficiently representative trade union on worker issues.
Labour wants to get its Act together

The anti-Labour Relations Act campaign may lead to positive results, with new proposals by a sub-committee of the National Manpower Commission to change the controversial legislation. CHIARA CARTER reports

Another major difference from the union perspective is over so-called secondary strikes and sympathy strikes.

The NMC recommended that sympathy strikes, strikes in support of recognition or in demand of the reinstatement of a dismissed worker, should be prohibited.

An attempt to initiate an illegal strike would be regarded as a criminal act.

The commission also recommended that South African labour law be extended to the farms of South African workers so as to cover all those workers who previously fell outside the provisions of the Act.

This follows the Apartheid Court ruling last year in the Zoliso case that workers employed outside the territorial limits do not qualify for protection under South African law.

The commission excluded a lengthy definition of an unfair labour practice (ULP).

Unions on the other hand have said that they want the law to revert to the pre-1988 situation when there was a general statement of fairness in the Act while industrial court judgements elaborated on the definition of an ULP.

Militant action

This would mean that millions of domestic agricultural and public sector workers would be covered by the Act — one of the major demands of the unions.

In short, the commission was faced with a situation in which civil servants are increasingly being organized into unions prepared to take militant action with or without the sanction of law.

The commission said there might be room for a joint trade union within the police and security services — a kind of acknowledgement for the recent rapprochement of unions among police and prison warders.

The commission also proposed that the heartfelt labour legislation be harmonised with that of South Africa.

This would effectively end the situation where employers relocate to the homelands to take advantage of the absence of labour laws.

Recent political events in the homelands where unions are making steady progress make homogenization in terms of legislation desirable.

The commission also recommended that the National Manpower Commission undertake a study into the possibility of extending labour laws to the homelands.

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Looking at the Labour Law

SOWETAN BUSINESS
Cosatu to sign LRA accord

COSATU has decided to sign the interim draft agreement on proposed changes to the Labour Relations Act (LRA), Cosatu's LRA working committee spokesman Marcel Golding said last night.

The draft agreement entered into between employer federation Saccola and union federations Cosatu and Nactu has been referred to Saccola for comment, Golding said.

It has to be approved by constituents of the three organisations before it is presented to Manpower Minister Eli Louw for consideration.

Golding said Cosatu was concerned at Saccola's "delay" in signing the draft agreement Saccola initially said it would respond by Monday but has asked for a postponement until April 20.

"Cosatu believes a delay in signing the agreement will have major consequences in our efforts to pilot the changes through this session of Parliament," Golding said.

The delay raised questions as to whether Saccola had been properly mandated in the course of negotiations, he said.

Although Nactu spokesman could not be reached last night, it is believed the union federation intends signing the document.

Saccola secretary Freda Dowie denied Saccola was dragging its feet. She said the document had been drawn up by working groups representing the parties.

"There were no full teams from any side. It takes time to process the document through Saccola," she said.

Asked if Saccola had found any stumbling blocks in the proposals, she said: "I cannot say. We are having a working group.

Cosatu meeting on the document.

She said work on the agreement had started only about four weeks ago.

"Saccola has always been properly mandated throughout the talks and we are in the process of mandating at the moment."

Pressing the changes through Parliament was also Saccola's aim, she said.

Golding said Cosatu's decision to sign was the culmination of months of worker action in the factories, shops, mines and public and private sectors.

He said the draft agreement was only the first stage of Cosatu's campaign to achieve equitable adequate legislation to protect workers and unions.

The interim agreement proposed that all workers be covered by the legislation, and secured basic rights for all workers.

These included the rights of all workers to belong to unions, to strike, to bargain collectively, to access to stop orders and the recognition of shop stewards.

Proposals included reverting to the unfair labour practice definition prior to the amendment of the LRA.
Two labour federations agree to LRA changes

By Shareen Singh

Cosatu and Nactu have agreed to sign the interim draft agreement between Saccola and the unions on proposed changes to the Labour Relations Act (LRA), the federations said last week.

The unions are waiting for Saccola to sign the interim agreement. The agreement has to be approved and signed by all three parties before it is presented to the Minister of Manpower, Mr Eli Louw, for consideration.

Meeting

Cosatu and Nactu expressed concern that the employer organisation has not made a decision yet.

The unions had suggested an April 9 meeting between the parties, but the employers pushed the date forward to Monday April 23.

Mr Marcel Golding, spokesman for Cosatu's LRA working committee, said any delay in signing the agreement would affect their plans to pilot the changes through this parliamentary session.

Saccola secretary Ms Frieda Dowie reportedly denied the employer organisation was dragging its feet.

She said a working group had started working on the agreement about four weeks ago.

It would take time to process the document through Saccola, she said.

Mr Golding said the draft agreement accepts that all workers must be covered by the legislation and ensures basic rights for all workers.

These basic rights include the right to strike, to bargain collectively and recognition of shop stewards. Other aspects provide for reverting to the old unfair labour practice definition.

In respect of dismissals and retrenchments, the International Labour Organisation's guidelines will apply.

A special labour appeal court will be established with expert judges to hear appeal cases. Dispute procedures will be made simpler and racial registration will be scrapped.

A response from Saccola is expected by April 20.

Despite their accord on the LRA, rivalry between Cosatu's Chemical Workers Industrial Union (CWIU) and the Nactu-affiliated South African Chemical Workers Union (Sacwu) has resulted in violent clashes between members of both unions.

Last Tuesday the CWIU obtained an urgent interdict against Sacwu's president and two shop stewards to stop them from assaulting or threatening to assault CWIU members at AECI's Modderfontein plant.

The three have until May 8 to respond to the interdict.

Gaining membership

A CWIU statement listed several incidents of violence between the two unions over the past two years, at plants where Sacwu members wish to leave their union to join the CWIU.

The CWIU claims that many Sacwu members are moving over to join their union.

Sacwu spokesman Mr Humphrey Indaba said this was not correct and that his union was in fact gaining membership.

Attempts to merge the two unions since 1981 have failed and the CWIU blames this on the Sacwu leadership.
For written reply

General Affairs

Hout Bay: sewage

194 Mr C W EGLIN asked the Minister of Water Affairs

(1) Whether an exemption permit has been granted to the Cape Western Regional Services Council to allow the discharge of sewage into the sea at Hout Bay, if so, when was it granted,

(2) whether, prior to the granting of the permit, his Department required a feasibility study of an alternative land-based sewage disposal scheme to be undertaken, if not, why not, if so,

(3) whether he will make public the results of such a study, if not, why not? B474E

The MINISTER OF WATER AFFAIRS

(1) Yes, on 2 May 1986

(2) No. Local authorities and other institutions, normally appoint professionally qualified specialist consultants to investigate sewage disposal alternatives and to make recommendations regarding the best possible means of disposal. Upon receipt of the report by the specialist, it is studied by the Department of Water Affairs to determine whether the resultant discharge would be acceptable. There is no statutory provision for compulsory investigation of alternative sewage disposal schemes but the Department can, and has in the past, in some cases requested that such schemes be investigated.

(3) Falls away

Originally it was the policy of the Department of Water Affairs to eliminate the disposal of raw sewage into the sea as far as possible. This policy was adopted at that time because there was then little knowledge about the effects of raw sewage discharge on the marine environment and little expertise was available for the proper design of marine outfall pipelines. The Department of Water Affairs has a duty to review and adapt its water quality management policies continuously in the light of changing social, economic and technological circumstances, to ensure that the quality of the country's marine and fresh water resources is adequately protected. During the last decade, water quality criteria were developed for beneficial use of the marine environment. Expertise on investigating the impact of marine disposal of effluents on beneficial use of the marine environment and on the design, construction and monitoring of marine outfalls was developed. The Department of Water Affairs' assessment is that these technological developments have now reached such a state that the same policies for effluent disposal in both the marine and fresh water environments can be adopted and subsequently a new policy was formulated.

In terms of the new policy the Department of Water Affairs will grant an exemption for the disposal of screened, macerated raw sewage into the marine environment if:

(a) it is neither justified nor practically feasible, in terms of water demand and supply considerations, to return the effluent to its source of origin or to utilise it as a source for re-use;

(b) the disposal of the effluent will not result in the deterioration of the marine environment to such an extent that it interferes with its beneficial use, and;

(c) public opinion has been taken into consideration.

In terms of the above policy, the Department of Water Affairs, after receiving the application for an exemption from the said Regional Services Council, satisfied itself that it was neither practically nor economically feasible to require the treated sewage effluent be returned to its source or to be re-used. It may also add that a detailed investigation of the impact of the proposed marine outfall pipeline at Hout Bay on the marine environment was carried out during 1983 by the CSIR according to the guidelines set by Report No 94 of the South African Scientific Programme (Water Quality Criteria for the South African Coastal Zone). On the basis of this investigation, the Department decided that the marine disposal of sewage under the conditions listed in the exemption issued would adequately protect the beneficial use of the marine environment at Hout Bay.

The present policy does not require an applicant to carry out a detailed and exhaustive comparison of alternative options for the disposal of effluent. I am also satisfied that at the time public opinion was taken into account and that it was not against the marine disposal of the effluent. It seems that since the time the exemption was granted public opinion has changed and turned against the marine disposal of sewage. If I now have to withdraw the exemption, it would result in fruitless expenditure by the Regional Services Council as the exemption, when it was issued, met all the Department of Water Affairs' policy requirements, the said exemption remains valid and will not be reconsidered at this stage.

Civil pensioners

201 Mr K M ANDREWS asked the Minister of National Health and Population Development

(1) How many civil pensioners are there who retired (a) before 1960 and (b) during the period (i) 1960 to 1965, (ii) 1966 to 1970, (iii) 1971 to 1975 and (iv) 1976 to 1980,

(2) what is the average monthly pension paid to pensioners in each of these categories?

The MINISTER OF NATIONAL HEALTH AND POPULATION DEVELOPMENT

(1) (a) Before 1960 1785

(b) (i) 1960-1965 331

(ii) 1966-1970 320

(iii) 1971-1975 850

(iv) 1976-1980 15970

(2) (a) Before 1960 R1 077,90

(b) (i) 1960-1965 R1 094,72

(ii) 1966-1970 R1 000.39

(iii) 1971-1975 R988,55

(iv) 1976-1980 R899,57

Bed occupancy rate at hospitals

212 Mr M J ELLIS asked the Minister of National Health and Population Development

What was the average bed occupancy rate in 1989 at each specific hospital falling under the provincial administrations?

The MINISTER OF NATIONAL HEALTH AND POPULATION DEVELOPMENT

The average percentage bed occupancy for provincial hospitals during 1989 is not readily available. The average percentage bed occupancy for provincial hospitals during 1988 was as follows:

<table>
<thead>
<tr>
<th>Province</th>
<th>No of Hospitals</th>
<th>No of Beds Occupancy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cape Provinces</td>
<td>83</td>
<td>17847</td>
</tr>
<tr>
<td>Natal</td>
<td>26</td>
<td>11915</td>
</tr>
<tr>
<td>CFS</td>
<td>27</td>
<td>4502</td>
</tr>
<tr>
<td>Transvaal</td>
<td>63</td>
<td>21762</td>
</tr>
</tbody>
</table>

Labour Relations Act: wage regulating machinery

219 Mr P H GASTROW asked the Minister of Manpower

(1) How many (a) industrial council agreements, (b) conciliation board agreements, (c) arbitration awards, (d) Wage Board determinations and (e) orders in terms of the Labour Relations Act, No 28 of 1956, were in force as at 31 December 1989?

(2) how many (a) Whites, (b) Coloureds, (c) Indians and (d) Blacks were affected by each of the above five categories of wage regulating machinery as at that date?

The MINISTER OF MANPOWER

(1) (a) 147

(b) None

(c) 5

(d) 46

(e) 5

(2) (a) Before 1960 R1 077,90
(2) | (a) | (b) | (c) | (d) |
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
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</thead>
<tbody>
<tr>
<td>Industrial council agreements</td>
<td>172 138</td>
<td>196 576</td>
<td>64 617</td>
</tr>
<tr>
<td>(Estimated figures)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Conciliation board agreements</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Arbitration awards</td>
<td>Figures are not readily available</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wage Board determinations</td>
<td>159 000</td>
<td>135 000</td>
<td>39 500</td>
</tr>
<tr>
<td>(Estimated figures)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Orders (sect 51A)</td>
<td>All races 142 800 (separate figures are not readily available)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Note: Figures supplied are according to the definition of "wage regulating measure" in section 1 of the Labour Relations Act 1956. Some persons may be accounted for twice as all wage regulating measures are included. See paragraph 129 of the Department's Annual Report, 1989, as well as paragraph 24 of the Preface and Review.

Industrial Court cases
251 Mr P H P GASTROW asked the Minister of Manpower (a) How many cases were referred to the Industrial Court, (b) how many of these cases were settled before evidence was called and (c) how many status quo orders were (i) granted and (ii) refused, in 1989? The MINISTER OF MANPOWER (a) 4 492 (b) 2 059 cases settled or withdrawn before hearing (c) (i) 154 (ii) 183

Note: These figures are of the period 1 November 1988 until 31 October 1989. Please see Table 11 on page 146 of the Department's Annual Report of 1989.

Industrial accidents
253 Mr P H P GASTROW asked the Minister of Manpower (a) How many industrial accidents occurred in 1989 and (b) what was the total cost of these accidents to (i) the State, (ii) the Accident Fund and (iii) insurance companies. The MINISTER OF MANPOWER (a) How many workers (i) suffered permanent disablement and (b) died as a result of injuries sustained at work in 1989? (2) How many industrial accidents occurred in the Republic during the latest specified period of 12 months for which figures are available, (b) what amount was paid out by the Accident Fund in respect of such accidents and (c) what was the total period for which the persons injured in such accidents were absent from work?

260 Mr P J PAULUS asked the Minister of Manpower (a) What amounts were paid by his Department in 1986, 1987 and 1988, respectively, in respect of claims in which decisions of the Minister, Director-General and

SATS' publicity programme
258 Mr H H SCHWARZ asked the Minister of Mineral and Energy Affairs and Public Enterprises (a) What is the cost of the publicity programme presently being conducted (i) on television, (ii) on radio and (iii) in the printed media by the South African Transport Services and (b) (i) how long is it intended to continue with this programme and (ii) what is the purpose thereof? The MINISTER OF MINERAL AND ENERGY AFFAIRS AND PUBLIC ENTERPRISES (a) (i) R 2 038 289,16 (ii) R 1 911 709,54 (iii) R 1 503 990,17 (b) (i) Television until 12 May 1990 (ii) Radio until 16 April 1990 (iii) Press until 15 April 1990

265 Mr C W EGLIN asked the Minister of Foreign Affairs (a) Whether a former Director-General of his Department, whose name has been furnished to the Department for the purpose of his reply, has been appointed to an administrative post in his Department if so, (a) to what post, (b) what are his powers, functions and responsibilities and (c) over what areas will he exercise them and (d) what is the name of this person. The MINISTER OF FOREIGN AFFAIRS (a) (i) Dr B G Foure has been appointed on a short term contract in the Department of Foreign Affairs to act in an overall co-ordinating capacity in the Eastern Cape area from 9 March 1990 (b) (i) and (ii) He has no executive powers but acts in consultation with the Department of Foreign Affairs and the Ciskei Council of State in a co-ordinating capacity with regard to government functions in the region as well as those concerning relations between the RSA and Ciskei
Labour law peace about to break out

The debate on the Labour Relations Act could be approaching a happy ending.

After two years of tough negotiation, employee federation Sacsoc and trade union organizations Cosatu and Nactu agreed in principle last month on various clauses in the new law. This was followed by a historic meeting between Manpower Minister Billy Levana and a Cosatu-Nactu delegation. Mr Levana agreed to try to push through amendments, based on Cosatu-Nactu-Sacsoc principles, at the current session of Parliament.

On April 3, the National Manpower Committee (NMC) legislator sub-committee released its proposals for the consideration of the LRA. The proposals have been generally welcomed by unions, employers and labour lawyers.

Sacsoc chairman Bobby Godsell says employers tried all along to coordinate discussions on the LRA with the reviews being conducted by the NMC.

"Both Cosatu and Nactu declared in negotiations that they would not be committed to any agreements or side arrangements with the NMC in the negotiations and would be represented by their acting chairman at most of the meetings held in 1990."

The result is that the draft agreement between Sacsoc and the two unions deviates, and the NMC proposal, broadly follows the same theme, although there are certain differences.

The key areas which come under the spotlight in the tentative agreement between Cosatu, Nactu and Sacsoc are the definition of an unfair labour practice (ULP), the Labour Appeal Court (LAC) system and a clarification of disputes and court procedures.

The agreement proposes swapping of amendments to the LRA introduced in 1988 and amending the pre-1988 definitions of a ULP. Effectively, this gives the Industrial Court the right to decide whether actions such as sympathy and rolling strikes and costcutting boycotts are unfair or not.

Evaluations and refinements are also dealt with. The proposed draft agreement suggests that dismissals be declared unfair unless they are made in accordance with proper procedures. Refusals or repudiations of contracts must take place.

The NMC proposals also deal with ULPs, saying disputes concerning them may, in the case of industrial dispute and conciliation boards (ICBs), be referred to the Industrial Court by agreement of the parties. Alternatively, the party is required to refer the dispute to the Industrial Court or to the Conciliation Act for a decision.

The participation of the NMC in the LAC is not clarified in the draft agreement. The NMC says it will be appointed to the LAC in the case of industrial dispute and conciliation boards (ICBs). The LAC should be reformed and strengthened to reflect the present structure.

The NMC says the LAC should also be more representative of the Labour Court, with an appeal body at the same level as the present Industrial Court.

The NMC says "The appeal body will make law and should be a chamber of the Supreme Court. The court members should be the same as the Supreme Court judges. Appellants should be suitably qualified and appointments should be made by the Chief Justice after consultation with the National Manpower Council."

For the amendments to be unequivocally understood, it is suggested that the party of the aggrieved be able to introduce unlawful strikes. But it can do so only under exceptional circumstances as the case of lawful strikes.

The NMC proposals suggest a high standard of the Industrial Court and an appeal body. The court should act a judicial role in the review system, with an appeal body at the same level as the present Industrial Court.
Critical stage in labour talks

NEGOTIATIONS between business and labour on changes to SA's labour legislation have reached a critical stage with a meeting tonight between employer federation Saccola and Cosatu and Nactu.

The meeting, to attempt to finalise a draft agreement, takes place after disclosures that Manpower Minister Ell Louw had told the union federations he required the complete agreement soon if there were to be time to consider translating it into legislation.

Saccola spokesmen confirmed the organisation had submitted to the unions on Friday certain proposed changes to the original interim draft agreement drawn up by legal representatives of the two sides.

Cosatu and Nactu announced last week they were ready to sign the draft.

It could not be ascertained exactly what these changes were.

Cosatu negotiating team member Marcel Golding said he had not yet had an opportunity to study the Saccola document so could not comment on the differences.

It would appear that there is a new urgency to finalise the agreement after Louw wrote to the union federations last week telling them the agreement should be submitted to him as soon as possible. Failing this, it would be too late to draft legislation for passage through Parliament this session.

The communication between the Minister and the union federations follows their first meeting in March, during which they agreed new labour legislation should be based on consensus of as broad a range of interested party opinion as possible.

The interim draft agreement proposed that all workers be covered by the legislation and secured basic rights for all workers. These included the right of all workers to belong to unions, to strike, to bargain collectively, of access to stop orders and the recognition of shop stewards. Proposals included reverting to the unfair labour practice definition existing before the amendment of the Labour Relations Act.
New labour law subject of dispute

25/4/90

Differences between organised business and labour in negotiations over the Labour Relations Act could hinder plans for legislative amendments to be pushed through Parliament this year.

Cosatu/Nactu spokesman Marcel Golding said yesterday proposed revisions by employer federation Saccola to the draft devised by legal representatives of the two sides seriously complicated the timetable.

The revisions, described by Golding as "substantial," were discussed at a six-hour meeting in Johannesburg which ended in the early hours of yesterday morning. The unions, he said, believed Saccola might have reneged on agreements in principle reached previously.

Saccola secretary Frieda Dowie disputed that allegation. "We are not reneging on any agreement. We proposed revisions because we were not satisfied with the way in which some of the agreements in principle had been translated into proposed legislation," she said.

The parties are scheduled to meet again tonight and a further meeting has been scheduled for Monday when, it is hoped, the agreement could be finalised for submission to Manpower Minister Elie Louw.

While spokesmen for both sides would not divulge details of the dispute, it is understood they revolve around interdicts against strikes, time limits for the lodging of disputes, and an employer undertaking to abide by any agreement even if it is not translated into law. The unions are willing to accept that employers should have the right to apply for interdicts against unlawful strikes.

However, Saccola wishes employers to be entitled to apply also for interdicts against lawful strikes where substantial and irreparable harm could be caused to the affected business.

The unions want 180 days for the lodging of disputes through official channels, while Saccola is willing to accept a substantially shorter period than that.

Finally, it is understood Saccola is loath to undertake to sign an agreement "on the implementation of the rights contained in the proposed amendments for so long as these rights have not been given legislative effect."
Anger over labour proposals

By Drew Forrest

The issue of strike interdicts has emerged as a key obstacle to finalising a vital union-employer deal on the Labour Relations Act.

At a six-hour meeting with union groupings Cosatu and Nactu on Monday night, the employer body Saccola proposed wide-ranging amendments to the draft LRA agreement struck last month.

Unions yesterday said employers seemed to be reneging on the deal, which had been referred to members for endorsement, not further negotiation.

They also described as “a breach of procedure” Saccola’s use of senior counsel to redraft the agreement, saying the task had been entrusted to a mutually agreed drafting committee.

Saccola’s chairman Mr Bobby Godsell stressed that the committee had worked without a mandate and that the draft deal had to be referred for study and change by the parties. “It was never envisaged that its proposals were set in concrete,” he said. The employers’ current stand was “thoroughly consistent” with principles agreed on during the Saccola talks.

Sources said Saccola has departed from the draft agreement in four major respects.

○ The Industrial Court could interdict lawful strikes which threatened life or property, or cause “substantial or irreparable harm.” In the draft deal, legal strikes are immune from interdict.

○ An agreement to implement basic, worker rights for all workers, including public-sector and farm workers not covered by the LRA, has been dropped.

○ An agreement that there should be a single appeal from the industrial Court has been dropped.

○ The time limit for the referral of unfair-labour-practice cases has reverted to the current 90 days. The draft provides for 180 days.

Last-minute snags in the Saccola process could thwart the passage of the agreement into law in the current session of Parliament.

At a meeting last month, Manpower Minister Mr Ehi Low told the unions he would try to push through legislation based on the broadest possible consensus. Last week, however, he reportedly told Cosatu and Nactu that time was running out.

Further talks are expected to take place today.
Labour Act talks hit serious snags

THE "Saccola talks" on the Labour Relations Act have hit serious snags, with union negotiators accusing employers of "reneging" on key features of a draft agreement reached last month.

This raises doubts about the translation of the deal into law during the current parliamentary session.

According to reports, Manpower Minister Mr Eli Louw has warned the unions that final agreement will be needed soon if it is to be enacted.

At a meeting with Cosatu/Nactu in Johannesburg on Monday night, Saccola (the SA Consultative Committee on Labour Affairs) presented its response to the agreement, which the unions have endorsed.

According to Cosatu negotiator Mr Marcel Golding, the employer body has "restructured the entire package".

"There are now substantial areas of difference," he said.

Saccola could now not be contacted before going to press yesterday.

The union view has been that the interim deal must be seen as a total package which cannot be amended without a fresh mandate.

"On our present mandate, we can't see out way clear to accepting the Saccola proposals," Golding said.

Golding declined to elaborate, but it is understood that the issue of interdicts against strikes has emerged as a major stumbling-block.

The draft agreement proposes significant curbs on strike interdicts.
Breakthrough for LP

Political Correspondent

BOYCOTTING legislation in parliament has earned the Labour Party a significant breakthrough, with the government agreeing for the first time to include farmworkers in certain labour legislation.

The Labour Party agreed today to suspend its boycott of all manpower and agricultural legislation, a move which has effectively prevented debate on these Bills in parliament so far this session, after reaching an agreement with the Minister of Manpower, Mr Eli Louw.

The LP demand was that the country's scores of unprotected farmworkers be covered by existing labour legislation.
Attempts to resuscitate draft LRA

Labour Reporter

In a bid to salvage the draft employer-union deal on the Labour Relations Act, a re-drafted accord is to be taken back to the constituencies of both sides.

Following talks between the employer body Saccola and the union groupings Cosatu and Nactu, a bipartisan drafting committee met yesterday to re-shape the agreement.

Saccola secretary Mrs Friede Dowie said further talks were likely once members had been consulted on the new draft.

Earlier this week Saccola proposed wide-ranging amendments to the agreement, prompting union charges that employers were reneging on its terms. Employers denied this.

Proposed changes include the issue of strike interdicts and the implementation of basic rights for all workers in advance of new legislation.

The aim is to submit the agreement to the Government for enactment during the current parliamentary session. Further delays could prevent its passage into law.
al court, strikes and lockouts, unfair labour practices and employee rights, union registration and the role and composition of the NMC itself.

The NMC says some of the functions of the revised Act would be to promote industrial peace; protect freedom of association, foster collective bargaining; simplify procedures, and address the concept of the duty to bargain.

A significant proposal in the 16-page document released on April 10 is that legislation should be harmonised with labour law in the self-governing and TBVC States. It is also suggested the scope of the Act be extended to include all occupations — including civil servants, farm and domestic workers.

It is proposed that farm and domestic workers should be included “in principle” at this stage, but that provision could be made in the Act for its extension (or certain provisions thereof) by proclamation later.

Police and security personnel have not been included.

It is also recommended that the NMC be reconstituted and renamed the National Labour Council. This would be bi-partisan but include State representation as observers in formulating labour policy.

Other recommendations:
- Dispute resolution mechanisms to be simplified and disputes on individual issues to be processed in either the Industrial Court (possibly to be renamed the Labour Court), the magistrates’ courts or the small claims courts.
- Scope to be made for bargaining at appropriate levels and that private mediation be made available in addition to conciliation boards and industrial councils.
- Arbitration to be encouraged through the State subsidising the arbitrator’s fee.
- Strikes to be decriminalised and regulated by unfair labour practice jurisdiction.
- Court procedures to be simplified with a single appeal court with no further recourse to the Appellate Division replacing the six labour appeal courts.
- Every employee to have the right of freedom of association.
- The unfair labour practice code to be freshly defined.
- Union registration be replaced by a simple certification procedure, and
- Selective dismissal/re-employment of strikers to be barred unless the strike was not procedural, or made a job redundant, or was not peacefully conducted. Fair procedure must be followed before dismissing.

Concerning industrial councils, it was proposed that provision be made for the manpower minister to accommodate the needs of small business before signing an agreement.

It was also recommended that the existing conciliation boards’ time limit should be abolished — but a dispute should still be referred within 180 days, a period which could be extended. The board should be given 30 days to settle a dispute.

May 21-23 is reserved for oral representation, which will be open to public scrutiny.
Unions and industry meet to draft new Labour Act

By EDDIE KOGG

TRADE unions and organised industry were last night locked in intensive efforts to draft a new labour law for South Africa.

The high-powered meeting was the latest in a string of attempts to break the logjam between unions and big business over the controversial Labour Relations Act (LRA).

A joint committee of experts from both parties met for most of yesterday to draft a new and mutually acceptable bill so that it can be passed by parliament this year.

The outcome of the drafting session was not known at the time of going to press. But both union and employer sources said the aim was to agree on a draft piece of legislation that could be recommended to their members for urgent adoption.

An alliance of unions from the Congress of South African Trade Unions (COSATU) and the National Council of Trade Unions (NACTU) plan to meet employer associations on Monday next week for the draft to be formally accepted. If this happens, it will be forwarded to the Minister of Manpower so that it can be tabled in parliament during the current session.

The on-off talks between the unions and the South African Consultative Committee on Labour Affairs (Saccola), which represents big business, ran into snags last week as employees asked for an earlier version of the jointly drafted law to be amended.

The main stumbling block was the employers' insistence that they retain the right to apply for urgent court interdicts against legal strikes in cases where these posed a threat to lives or the future of a company.

The earlier version of the joint Saccola/union draft included the right to interdict illegal strikes.

"We are not prepared to compromise on the right of workers to proceed with legal strikes. What is the use of workers complying with all the procedures to make their strike legal if, in the end, they can be interdicted by their employers?" said a senior union representative.

"We have accepted that the employers' concerns can be accommodated by redrafting the wording of the document. A joint team has been established to try and arrive at a mutually acceptable document that can be recommended to both constituencies for approval on Monday." said Saccola representative Freda Dowie.

Declined to comment on the debates that took place in talks this week.

"These are very sensitive and premature publicity could hinder our ability to get agreement on the draft," she said.

The parties agreed that all workers will be covered by labour legislation although it is not yet clear if farmworkers and state employees will be covered by the LRA or separate legislation, says Golding.
Parties push on with talks about LRA

COSATU, Nactu and employer federation Saccola were yesterday holding on course their attempt to reach agreement on interim changes to the Labour Relations Act to be made law during the current parliamentary session.

No official statements were issued after a seven-hour meeting which ended in the early hours of yesterday morning.

However, sources at the meeting said a drafting subcommittee of senior union and Saccola officials and their legal representatives was attempting to rework sections of the previous draft agreement on which the two sides disagreed.

The issues in dispute include the right of employers to bring interdicts against lawful strikes, time limits for the lodging of disputes, and changes in the operation of the labour courts.

It is understood that both sides made concessions, but details of these were described as too sensitive to disclose at this stage. A further mandating process will probably be required.

A union spokesman said Cosatu and Nactu were still very concerned that delays could prevent the possibility of an eventual agreement becoming law during this parliamentary session.

A Manpower Ministry spokesman said yesterday it was not possible to designate a final deadline for submission to Minister Eli Louw of the agreement.

However, if Parliament adjourned in early July as expected, time was running short. Louw has told the parties any agreement would be examined very seriously and with urgency. However, it would have to be investigated by the National Manpower Commission and be put through the normal procedures.
Behind the big ones

What can be learned from the major strikes of 1989, marked as they were by death, violence, intimidation and severe destruction of property? This is what three management executives explored in a Durban seminar last week. They discussed the strikes which affected SA Transport Services (now Transnet), SA Breweries and the Durban Transport Management Board (DTMB).

Transnet's Nico Heyns said his organisation is still facing major difficulties with relations between strikers and non-strikers, three months after the strike ended. One of the most bitter and violent strikes in SA's history, the 13-week Sats vs Sarhlu dispute cost 37 lives, R42m in lost wages and R40m in damage to property.

Heyns said there had been two main consequences: the realisation that staff could be significantly reduced, "by up to 30%" and the subsequent voluntary retrenchment package offered by Transnet to employees. There was also a white employee backlash.

In contrast, the more conservative Blatu union is still complaining that its members did not get enough protection during the strike. An important similarity between the Sats strike and the 10-week SAB strike last year, was the role played by the MDM in helping settle the disputes.

While Sats insisted on Sarhlu registration, called their strike illegal and fired strikers, these were not important issues for SAB. Yet the beer strike was also prolonged and marked by violence.

One consequence of the SAB strike is their attempt to put forward an arbitration model, so far rejected by the Food and Allied Workers' Union, to decide on acts of violence.

"The idea is to have an inquiry of fact, with provision for the arbitrator to hear evidence in camera, to decide what happened, but not how to settle," says SAB's Rob Childs.

A retrospective view of Durban's bus strike shows that it was an anomaly, with political events like the defiance campaign and elections leaving the DTMB powerless.

But the strike was also characterised by shop stewards taking virtually full control.

Says DTMB's Marshall Cuthbert, "Our strike was Mickey Mouse compared to the Sats strike but I believe the 'organisers' (not union officials) behind both the Sats and SAB strikes cut their teeth on us."
RECOMMENDATIONS for a new labour dispensation in KwaNdebele were made public this week.

Nic Wehahn, chairman of the commission of inquiry into KwaNdebele labour affairs, handed his 56-page report to the Government.

Professor Wehahn says the unique feature of the recommendations is that they combine all the regulations governing labour relations into five comprehensive laws.

These are the Placement and Employment Insurance Act, the Labour Relations Act, the Wage and Basic Conditions of Employment Act, the Protection of Safety and Injury Insurance Act and the Career Guidance and Manpower Training Act.

"The labour system and laws have been designed to harmonize and dovetail as much as possible with those of SA with the objective of achieving the greatest degree of uniformity,"

Provision is made for the recognition and registration of trade unions, employer organisations and industrial councils, for collective bargaining, mediation, arbitration and conciliation boards.

In addition, provision is made for the introduction of a labour code, a diminished role for government in labour relations, the introduction of a dynamic training programme and upgrading of the division of manpower in the Department of Internal Affairs to a fully independent Department of Manpower.

Professor Wehahn says the commission decided not to recommend the introduction of an independent labour or industrial court separate from that of SA because the cost would be prohibitive.

"Instead, we believe the KwaNdebele Government should negotiate with the SA Department of Manpower to extend the industrial court's jurisdiction to KwaNdebele or, alternatively, the magistrates' courts of KwaNdebele be commissioned to hear and decide labour cases."

The commission also recommends an urgent investigation into the minimum levels of wages in KwaNdebele.

Employers should be persuaded to introduce labour relations structures in their enterprises with a view to negotiating wages, conditions of employment, benefits, grievance and disciplinary procedures.

Professor Wehahn says the new labour dispensation will put an end to the trend of cheap labour and the lack of organised trade unions in the area.
SAB strike is examined in Industrial Court hearing

Labour Reporter

South African Breweries and the Food and Allied Workers Union cross swords in the Industrial Court today in a sequel to labour conflict at SAB's Rosslyn brewery last year.

At issue is Fawu's claim that management unfairly locked out 900 workers over an eight-day period last June. It wants compensation for lost wages.

SAB public affairs manager Mr Adrian Botha said workers had refused to work alongside a certain Mr Mxinge after he had complained of intimidation.

Strike

Both parties accepted that this was a strike.

SAB refused to allow a resumption of work once Mr Mxinge was off site. Management believed a conditional tendering of services constituted strike action.

In a statement, Fawu said the company had launched an "outrageous" counter-claim running into millions of rands for lost production during the dispute.

Mr Botha said SAB had considered such a claim, but had since dropped the idea.
Metal bosses push up pay offer to workers

By Drew Forrest

The giant Steel and Engineering Industries Federation (Sefisa) raised its wage offer by 1.5 percent in the third round of annual pay negotiations, which will affect 300,000 metalworkers.

The offer now stands at between 11.5 and 13.7 percent — which means an hourly rate of R4.07 for labourers and R6.27 for artisans.

The largest union which is party to the metal industrial council, the National Union of Metalworkers, has demanded a R5.50 minimum for unskilled workers and an across-the-board rise of R2.

Sefisa said in a statement that further employer concessions included an agreement in principle to extend the wage deal to all parts of South Africa, including the rural homelands, "if legally possible".

This is subject to provisions that the extension be phased in over a period, and that small businesses were excluded.

Employers also offered to increase living-out allowance by between 44 and 72.4 percent.

Sefisa said much of last week's negotiations focused on the proposal that small businesses — possibly defined as having eight or fewer employees — be excluded from the wage agreement. Employers indicated that the success of the talks might depend on a positive response to the proposal.

The next round of talks is on May 10.

Employment Act changes hailed

Labour Reporter

The employer body Sacca has welcomed Government moves to regulate the basic employment conditions of farmworkers and has urged the participation of employers and unions in the framing of new law.

Last Friday, Manpower Minister Mr El Louw announced in Parliament that following extensive discussions with the SA Agricultural Union and parliamentary representatives of farmworkers, the Basic Conditions of Employment Act and the Unemployment Insurance Act would be amended next year to apply to farming.

The particular circumstances of agriculture would be taken into account in adjusting the laws and all interested parties would be consulted.

Mr Louw also said that he had asked the National Manpower Commission to probe and make recommendations on the extension of the Labour Relations Act and the Wage Act to farming.

The NMC would also be asked to investigate "whether the rights of domestic workers should be protected in legislation and if so, in what form."

The "unique circumstances" of these employees called for special consideration, he said.

Welcoming the move, Sacca chairman Mr Bobby Godsell stressed that the involvement of the SAAU and unions was vital if new legislation was to meet the needs of all parties.

On the Labour Relations Act, SAAU president Mr Nico Kotze stressed that the NMC was investigating a separate legal dispensation for dispute-settlement in agriculture.

He warned that the Wage Act — which provides for the setting of minimum wages — could have serious financial implications for farming.
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Labour legislation changes lie ahead

COSATU, Nactu and Saccola have achieved a breakthrough on changes to SA’s labour legislation after the unions and the majority of Saccola affiliates agreed in principle to sign an interim agreement on the Labour Relations Act (LRA).

But Cosatu announced yesterday negotiations were still at a delicate stage as the remaining Saccola affiliates had yet to agree.

Cosatu, Nactu and Saccola held late night talks on Monday as pressure mounted for an agreement to be reached to allow time for amendments to the LRA to be passed in the parlimentary session.

Cosatu spokesman Geoff Schreiner said the parties had agreed to sign the interim agreement on May 7, pending responses from Saccola affiliate Transnet and two Durban-based affiliates of the SA Chamber of Business (Sacob).

Urgency

Transnet only recently joined the negotiating process, and the Sacob members had refused to endorse the agreement so far.

Schreiner said he was confident the agreement would be signed.

The Cosatu statement said both sides had agreed it was a matter of “utmost urgency” the agreement was sent to the Ministry of Manpower to be processed in time for it to become law during this parlimentary session.

Saccola secretary Freda Dowie said yesterday the federation would not issue a statement on the agreement. She said the situation was still delicate.

MATTHEW CURTIN

The interim LRA agreement proposed all workers be covered by the legislation and secured basic rights for all workers. These included the right of all workers to belong to unions, to strike, to bargain collectively, of access to stop orders and the recognition of shop stewards.

The agreement also provided for the establishment of specialist sub-committees to consider the structure, functioning, and rules of industrial and labour appeals court, criteria for presiding officers, and statutory and judicial strike regulation.

A redraft of the original interim agreement was drawn up last week by a bipartisan committee, which Schreiner said was substantially unchanged.

Wide-ranging amendments put forward by Saccola last week had been dropped.

The Cosatu statement reiterated a call for all workers, including farmworkers, to be be covered by the LRA provisions.

Last week Manpower Minister Eln Louw announced in Parliament that the Basic Conditions of Employment Act and the Unemployment Insurance Act would be amended to apply to farming next year, after extensive discussions with the SA Agricultural Union (SAAU).

He had asked the National Manpower Commission to investigate extending the LRA and Wage Act to farmworkers.

This development was welcomed by Saccola chairman Bobby Godsell but SAAU president Nico Kotze warned the extension of the Wage Act could have serious financial repercussions for farming.
Unions accept LRA changes

The two major union federations and a majority of Saccola affiliates have agreed in principle to sign an interim list of amendment proposals to the current Labour Relations Amendment Act, the Congress of SA Trade Unions said yesterday.

A statement said that at a meeting on Monday Cosatu, Nactu Unions and the employer body Saccola had agreed to sign the agreement on May 7, pending responses from two major Saccola affiliates.

Those at Monday's joint meeting apparently concurred that the agreement would in the meantime be given to the Minister of Manpower, Mr Ell Louw.

A request would be made that he urgently process the agreement "to ensure that it becomes law during the current parliamentary session". — Sapa.
Breakthrough in LRA reached

By CHIARA CARTER

In a major breakthrough for labour relations, an interim agreement over changes to the controversial Labour Relations Act (LRA) has been reached between the two largest trade union federations in South Africa and employers.

Cosatu-Nactu and the majority of affiliates of the employer body, the South African Consultative Committee on Labour Affairs (Saccoola), this week agreed in principle to sign the interim agreement.

The actual signing will take place next week — pending responses from two major Saccoola affiliates, Transnet and two Durban-based affiliates of the South African Council of Business.

The agreement will be sent immediately to the Minister of Manpower with a request that it becomes law during the current parliamentary session.

The agreement provides for a set of basic worker rights, such as the right to strike and to bargain collectively, for all workers — including offshore workers.

The agreement reverses the definition of an unfair labour practice used before the Act was amended in 1988.

In terms of the agreement, time limits and bureaucratic procedures governing the declaration of disputes would be scrapped.

Unions would not be held responsible for damages resulting from illegal industrial action.

The agreement allows for proper notice and an opportunity to be heard in the case of interdicts against illegal strikes and lockouts.

Dismissal and retrenchment procedures would be brought into line with the conventions of the International Labour Organisation.

According to the agreement, registration would be decriminalised. Both public and private sector unions would be registered.

It establishes specialist sub-committees to examine the structure, functioning and rules of the industrial and labour appeal courts, criteria for appointing presiding officers and the legal regulation of strikes.

It makes provision for industrial court judgments to be made public, specialist assessors to sit in the labour appeal court and for the court to hear appeals within 90 days of referral.
EMPLOYERS and trade unions have agreed to sign an interim agreement on proposed changes to the controversial Labour Relations Amendment Act, Section 315/1990.

The agreement follows months of talks between Cosatu, Nactu and the SA Consultative Committee on Labour Affairs (Saccola).

The two parties are expected to sign the agreement on May 7, pending responses from some of Saccola's affiliates, including Transnet.

The terms of the agreement include:

* Scrapping of the section which allows employers to sue unions in the event of wildcat strikes;
* The establishment of specialist sub-committees to consider the structure, function and rules of - among other things - the industrial and labour appeals court; and,
* Revision of secrecy provisions relating to industrial court judgments.

The parties are to send the agreement to the Minister of Manpower, Mr Eli Louw, “as a matter of utmost urgency”.

Registration fees: guards to march in protest

Labour Reporter

The recently passed Security Officers' Act is to be the focus of countrywide protests by workers in the security industry.

At the heart of the protest is the Act's requirement that security guards register at a cost of R50 this year and R70 thereafter, on pain of dismissal or a ban on working in the industry.

Passed in April, the Act seeks to regulate the sector by requiring contract security firms and their workers to register. It also establishes a Security Officers' Board, with police, security, and industry representatives approved by the Government, to frame regulations.

Exorbitant

Transport and General Workers Union spokesman Mrs Kally Forrest said security workers had flocked to union branches meetings for the sector at the weekend. At these, it was decided to stage marches this month and in early June.

"The registration fee is exorbitant. The statutory minimum wage for security guards is R4133 a month, but recent research showed that 80 percent of companies pay less than half this." Mrs Forrest said workers' anger also focused on the Act's requirement that no one who had committed a crime could work in the sector. "Forty percent of black workers are estimated to have criminal records, many for political, influx control and petty offences."
Breakthrough LRA talks

THE trade union movement this week clinched an agreement with organised industry to steer new legislation through parliament that will amend the controversial Labour Relations Act before the end of June.

This is the first time that unions, big business and the government have agreed through a process of tripartite negotiations to amend a major piece of apartheid legislation.

The Congress of South African Trade Unions (Cosatu) said a labour alliance and the South African Coordinating Committee on Labour Affairs (Saccola), which represents most employers, had agreed on the draft of a new labour law late on Monday night.

The announcement, on the eve of the first peace talks between the African National Congress and the government, will inject a large dose of confidence into the negotiations to end apartheid rule.

The draft, which lays down rights that organised workers do not enjoy, will enhance the ability of unions to participate in the collective bargaining process.

Saccola agreed with a joint delegation from Cosatu and the National Council of Trade Unions (Nactu) to adopt formally the draft on Monday next week. Meanwhile it will go to the Department of Manpower so it can be processed through parliament this year.

Manpower Minister Eli Louw agreed during talks with Cosatu and Nactu earlier in the year to steer the draft through the procedures required for parliament to pass it before this sitting ends in June.

A representative for the department, Johan Miller, confirmed the draft will be sent to the National Manpower Commission (NMC) as soon as it reaches the minister's office so it can be processed urgently.

The draft includes a set of basic worker rights, including the right to bargain collectively and to strike. Saccola has agreed to push for it to be transformed into a law that covers all workers and to urge its members to deal with unions according to its principles.
About-turn on farm labour

THE announcement by Manpower Minister Enz Louw that farm workers will be brought under the ambit of the Basic Conditions of Employment Act (BCEA) is a major shift in Government labour policy. But it falls short of union demands that these workers be covered by the Labour Relations Act (LRA).

Mr Louw says labour legislation will be introduced next year to enable farm workers to be covered by a BCEA specifically adapted to agriculture, as well as the Unemployment Insurance Act.

The National Manpower Commission will investigate and report within 12 months on the suitability of applying the LRA and the Wage Act in agriculture.

Parties who will make submissions will include the labour movement and the South African Agricultural Union (SAAU), the employer body.

The SAAU has over the years rejected the concept of inclusion in the LRA, saying that agriculture is not suited to its dispute-resolving mechanisms. It is also opposed to the implementation of the Wage Act, arguing it would lead to a decline in employment on farms.

However, as far back as 1987 the SAAU indicated that it was not averse to provisions of the BCEA being accepted if specifically adapted to agriculture, for example, with modifications to working hours for each sub-sector, to allow for the unique nature of the operation.
Interim agreement on Labour Act changes to be signed

By CONNIE MOLUSI

THE DAYS of protest action against the Labour Relations Act (LRA) could be over when an interim agreement on changes to the Act between Cosatu, Nactu and South African Consultative Conference on Labour Affairs (Saccola) is signed.

Parties have agreed to sign the agreement pending the responses of three major Saccola affiliates – Transnet, which recently joined the negotiations, and two affiliates of Sacob, which has refused to endorse the accord.

Meanwhile, the interim agreement will be sent to the Manpower Minister Eli Louw asking him to process the agreement urgently to ensure it becomes law during the current parliamentary session.

The draft agreement, which lays down rights that organised workers do not now have, will improve the ability of unions to take part in collective bargaining.

Main areas of agreement include the right to strike, which will include all workers, and new provisions relating to dismissals and retrenchment in line with International Labour Organisation (ILO) conventions.

Louw declared last year, when assuming his post as minister of manpower, that he was prepared to make changes to the controversial amendments of the LRA as long as workers and employers agreed.
Employers, unions lead way to new SA

HERSCHEL
ADRIAN
MANPOWER

See page 9
AON THE TOP

ADVERTISEMENTS

PAGES AND PAGES OF THE BEST JOBS IN SOUTH AFRICA

SUNDAY TIMES BUSINESS TIMES May 6 1990
Cosatu talks to thrash out labour aims

Labour Reporter

More than 300 Cosatu delegates are to meet for a crucial conference on May 12 and 13 to chart the way forward in its living-wage, Labour Relations Act and Workers' Charter campaigns.

The conference, to be held at the University of the Witwatersrand, grew out of attempts to co-ordinate the campaigns, said key Cosatu transport unionist Mrs Jane Barrett.

She said that after input on the economy, progress would be reviewed and decisions taken on how to proceed in each area.

Mrs Barrett said that on the agenda were "core demands" in the 2-year-old living-wage campaign relating to centralised bargaining, job security, education and training.

Also up for discussion is the campaign against Barlow Rand, accused by the unions of undermining central bargaining, Cosatu's anti-privatisation thrust, and the minimum wage issue.

Mrs Barrett said a decision would probably be taken on how to proceed with the "Saccoola talks" on the Labour Relations Act, now that an agreement on interim changes to the legislation is imminent.

A further living-wage campaign is planned for September, she said.
All unions now look for more muscle

The immediate task in the current hospital crisis has been to restore normal patient care - but the strike wave has broader implications for South Africa's 730,000 public servants.

Union and legal sources believe the hospital unrest, following hard on the heels of the railway strike, may bring home that a special labour dispensation for State and semi-State sectors will not work.

State employees are now covered by the Public Service Act, a statute drafted by men who apparently thought public sector unions an outlandish idea.

This provides for the recognition of staff associations at the discretion of the Commission for Administration and an advisory council on which associations sit.

At the same time, the Labour Relations Act (LRA), while providing for the registration of public service unions, denies them all its benefits. Public servants and workers in hospitals, schools, state forests and the security forces cannot strike lawfully or use the Act's strike provisions or the Industrial Court.

The Public Service Act has been cited by the Transvaal Provincial Administration in refusing to recognize the National Education, Health and Allied Workers Union (Nehawa), which says it has hit a similar brick wall in dealings with the Johannesburg College of Education and Witwatersrand Technikon.

It is likely that the hospital dispute will be settled in a makeshift manner by informally granting Nehawa union rights and some form of bargaining status.

But there seems to be more flexibility than the TPA implies. Stressing that there is no specific statutory ban on union recognition, Nehawa lawyer Jonty Joffe argues that a common law deal can be reached.

A Commission for Administration spokesman effectively conceded the point this week by saying that the non-recognition of public service unions was policy rather than a legal requirement.

The Government is aware of the weakness of the present dispensation. In the wings is the Public Service Amendment Bill, tabled in Parliament last year and currently with State law advisers, which effectively provides for union recognition and a Public Service Central Bargaining Council.

Whether it will meet the needs of public servants, or indeed ever be enacted, are moot points.

Modelling on the South African Transport Services (Sats) Conditions of Service Act, the Bill proposes a ban on State sector strikes as on the railways, this is likely to be ineffective, Mr Joffe stresses.

He adds that the proposed bargaining forum, the product of Government decree rather than agreement, will suffer from the same defects as the Transnet Labour Council. These include equal votes for unions of unequal size.

At talks with the employer body, Sacola, black unions have consistently pressed for the LRA's extension to all workers. Special provisions could be made for essential services, though much more closely defined than at present.

Talks between Cosatu/NACTU and the responsible Minister, Dr Wim de Villiers, are planned shortly.

And in its preliminary proposals for the consolidation of the LRA, published last month, the National Manpower Commission also argues for one labour Act for all.

A Commission for Administration spokesman said this week that the State had given recognized public service associations a pledge to push through the Public Service Amendment Bill.

If it is enacted - and he conceded that the situation was "very fluid" - it could well be overtaken by a revamped LRA.
Making history . . . at the signing of the Labour Relations Act deal are (top, from left) Saccola's Mr Bobbie Godsell and Mr Bokkie Botha and (bottom, from left) Nactu’s Mr Cunningham Ngucu, Cosatu’s Mr Jay Naidoo, and Saccola chairman Mr Anton Roodt.

Labour Reporter

The two-year “Saccola talks” reached an historic climax yesterday when unions and employers signed an agreement on far-reaching interim changes to labour relations laws.

The deal was struck between the employer body Saccola and the union federations Cosatu and Nactu.

It will be forwarded to the Government during the present session of Parliament.

A joint statement said the parties were ready to meet the National Manpower Commission, State legal draftsmen and the Parliamentary Standing Committee on Manpower Affairs “on an urgent basis.”

Saccola chairman Mr Anton Roodt revealed that Transnet had also “associated itself with the agreement.” Transnet has been an occasional participant in the Saccola talks as an observer.

Cosatu and Nactu said in a statement that they welcomed the deal, but stressed that there was “a long road ahead.”

Public sector and other employers not covered by the Labour Relations Act (LRA) will be expected to endorse and comply with basic worker rights set out in the agreement.

To this end, the unions will soon meet the South African Agricultural Union, Ministers responsible for the Commission for Administration, and the Post Office.

The unions also stressed that although the agreement restored the situation because the controversial 1988 LRA changes, the law fell short in other ways.

It did not cover homeland workers, and there was a need for full strike rights and “impartial and competent” courts.

The unions added that the Saccola forum should go on to negotiate macro-issues such as health, housing, education and training.

A key feature of the agreement is its proposed reversion to the pre-1988 definition of unfair labour practice. This would lift the ban on solidarity and intermittent strikes, although unlawful strikes would be unfair.

The agreement proposes that the creation of a panel of expert assessors, acceptable to labour and employers, to advise the president of the Labour Appeal Court.

Two assessors would sit on each appeal and the ruling would be by a majority.
JOHANNESBURG — Employers and worker representatives signed a major agreement yesterday which calls for a number of amendments to the Labour Relations Act which points, it was suggested, to a new climate of negotiation.

Habitual enemies of old, yesterday wise-cracking representatives of the SA Consultative Council on Labour Affairs, the Congress of South African Trade Unions (Cosatu) and the National Council of Trade Unions sat alongside one another to sign the document.

It will be forwarded immediately to Manpower Minister Mr Eli Louw for processing and it is hoped it will be law by the end of this session of Parliament, reporters were told.

As outlined by Cosatu last week, the amendments include:

- Scrapping of the time limits and bureaucratic procedures in relation to the declaration of disputes (other than a 180-day time bar on disputes of right but with expeditious condition procedures)
- Provisions for proper notice and an opportunity to be heard in the case of interdicts against illegal strike and lockouts.
- Reversion to the unfair labour practice definition of pre-September 1988.
- New provisions relating to dismissals and reenforcements in line with the International Labour Organisation conventions.
- Provisions for specialist assessors to sit in Labour Appeal Court matters and for this court to hear appeals within 90 days of referral.

A set of basic worker rights (including the right to bargain collectively and the right to strike).

Sacola chairman Mr Anton Roodt, in a brief reference to the details of the agreement, said it represented "a major step towards broadly supported rules of the game.

Mr Roodt said he was sure most of the signatories to the agreement wished it had been signed long ago.

"It (the agreement) shows it is possible to reach consensus through discussion," said Mr Roodt, a sentiment confirmed by Cosatu general secretary Mr Jay Naidoo.

Although the labour agreement had been signed before the Grootte Schuur Minute, said Mr Naidoo with a smile, it had in fact pre-empted that document.

Some of the delay was apparently caused by the position of two Sacola affiliates — Transnet and the National Printing Federation. Transnet has since advised Sacola that it is a willing signatory to the agreement, if only to end the delay.

Another Sacola representative, Anglo American director Mr Bobby Godsell, said the National Printing Federation was not party to the agreement.

Mr Roodt said Mr Louw had not indicated whether there would be enough time to process the document in this session of Parliament.

And in another cautionary note, Mr Naidoo said that a deal still had to be negotiated with employers from the agricultural, administration and postal sectors.

There was still a long road ahead, he said.

— Sapa
Employers, unions sign LRA accord

AFTER more than two years of negotiation, employer federation Saccola and union groups Cosatu and Nactu yesterday took the historic step of signing an agreement on amendments to the Labour Relations Act (LRA).

Suggesting they had set an important example for the political process faced by SA, the parties said the agreement was "an indication it is possible to resolve conflict through discussion and compromise". The agreement was to be forwarded immediately to Manpower Minister Elton Louw "in the hope it will be possible to debate and process the proposed changes during the 1999 session of Parliament", a joint statement by the three organisations said.

The parties had, to this end, made themselves available to urgently meet the National Manpower Commission, government and parliamentary legal draftsmen, and the Parliamentary Standing Committee on Manpower Affairs.

Louw undertook on March 15, after a meeting with the two union federations, to give any proposals arising from the negotiations priority attention.

The agreement was signed at a Johannesbourg hotel by Saccola chairman Anton Roos and Cosatu and Nactu general secretaries Jay Naidoo and Cunningham Ngxokana respectively.

The proposed legislative amendments are interim ones, with agreement that specialist sub-committees be established to examine areas of concern not covered by the agreement.

These include the structure, rules and functions of the industrial courts and of the Labour Appeal Court, the criteria for appointing presiding officers to the courts, and the statutory and judicial regulation of strikes and lockouts.

Cosatu and Nactu said while they welcomed the agreement there was still "a long road ahead" before fully acceptable labour legislation was achieved.

This would require public sector and other employers not yet covered by the Act coming under its ambit. For this reason the unions intended meeting the SA Agricultural Union and the Ministers responsible for the Commission of Administration and the Post Office (Transnet, as a member of the Afrikaanse Handelsunie, a Saccola affiliate — is effectively the first and only state-owned corporation to associate itself with the agreement).

Cosatu and Nactu said in many respects the agreement only recovered ground lost in 1988 amendments to the LRA. They wanted the law extended to cover the homelands, workers to be accorded full rights to strike, and the establishment of "impartial and competent labour courts".

They believed the translation of the agreement into law would simply be a matter of political will, and that such legislation should be treated as expeditiously as that related to the political negotiations.

The forum created for these negotiations was an important and useful one, and should be used for talks on other "macro" issues like health, housing, training and education, and benefit schemes, they said.

Naidoo said labour legislation should always be negotiated in this manner, including in a post-apartheid SA.

LRA accord

"Labour law can only work if the two main protagonists — business and labour — are satisfied with its content," he said.

Among the most important aspects of the proposed law is a reversion to the pre-September 1988 definition of unfair labour practice, and new provisions relating to dismissals and retrenchment in line with ILO conventions.

The agreement also effectively removes the right of the Industrial court to interdict legal strikes and lockouts, and contains provisions for proper notice and an opportunity to be heard in interdict applications against illegal ones.

It contains a set of basic worker rights, including the right to bargain collectively and the right to strike. It proposes removing any potential racial considerations from the registration process, scrapping or extending time limits in relation to the declaration of disputes, revising secrecy provisions relating to industrial court judgments and scrapping the presumption of liability against trade unions in relation to wildcat strikes.

Finally, it proposes a procedure for the appointment of a panel of assessors to the Labour Appeal Court jointly nominated by organised business and labour.
‘High interest rates still necessary’

It would not be possible to bring down inflation unless high interest rates were maintained, the Minister of Finance, Mr Barend du Plessis, said yesterday.

Repling to the first reading debate on the Budget, he said such interest rates were a necessary pain.

Turning to disparities in State spending, he said while this Budget was the best the Government could have done at this stage, it was looking at the five-year plan and would look at it again.

The State did not see the way clear to paying a bonus at this stage, but if ever it did, it would be directed at the elderly.

Referring to a statement that the Government’s revenue was determined for it and not by it, Mr du Plessis said his colleagues regularly came to him to see how moves could be made within the Budget.

He had received no such representations from Ministers in the Houses of Representatives and Delegates, to which the Chairman of the Ministers’ Council in the House of Representatives, Mr Allan Hre-
Govt non-committal on new labour laws

MANPOWER Department representatives were non-committal yesterday on whether it would be possible to translate into legislation this year the historic employer/union agreement signed on Monday on proposed interim amendments to the Labour Relations Act.

The accord between employer federation Sacola and union groups Cosatu and Nactu was reached after more than two years of talks.

The parties have expressed concern that a failure to have the agreement translated into law would reverse the positive developments that have flowed from the agreement.

At their first meeting in mid-March, Manpower Minister Eli Louw told the two union federations he would submit any agreement to the National Manpower Commission (NMC) for its urgent attention.

He would give the NMC’s proposals “priority attention and endeavour to put it through Parliament in the current session”. He has since stressed the need for broad consensus on new labour legislation.

A Manpower Ministry spokesman confirmed yesterday that Louw had received a copy of the agreement and had begun studying it.

He said Louw’s feeling was that the most appropriate next step would be a meeting with representatives of the three parties to the agreement.

Asked whether it would be possible to complete the process before the Parliamentary adjournment—scheduled for late June—the spokesman said it was possible, but he was unwilling to make any binding commitment.

Manpower director-general Joel Fourie said while he still had to study the agreement he thought it “was going to be difficult, but we will do our best”.

He said it would be necessary to consult groups not party to the agreement, in terms of the department’s policy of achieving broad consensus.

However, Cosatu and Nactu have said their attitude “to co-operation with institutions such as the NMC will be informed by the success or otherwise of processing this agreement through the white Parliament”, and they believed pushing the changes through was merely a matter of political will.

An employer source yesterday agreed with that assessment, saying that since the proposals were already supported by such a broad range of interests it did not seem necessary to follow unnecessary procedures.

See Page 8
Accord sets a precedent

ALAN FINE

It also amends the section of the definition relating to unfair dismissals, by eliminating the existing six-month period during which a dismissal may, by definition, not be unfair, and strengthening the right of employees to a hearing prior to dismissal and to consultation prior to retrenchment.

The parties have proposed that the Act be extended to include workers within the continental shelf — apparently to cover, among others, gas exploration — and to permit employee associations composed of both public and private sector workers.

The proposals seek to eliminate potential racial considerations in the registration process by deleting the clause which effectively permits unracial unions to object to the registration, on a non-racial basis, of a union involved in the same industrial sector.

It is also proposed that provisions for secrecy regarding court judgments be relaxed, although scope would remain for asking the court to rule that all or part of particular judgments remain confidential.

Finally, the agreement proposes the deletion of section 79 (2), as a draft Bill already published has done. The section is that which presumes unions liable, unless they can prove otherwise, for damage suffered during unlawful strikes.
Rules of the game

Manpower Minister Eh Louw will go into discussions with employers' body Saccoa and union federations Cosatu and Nactu, once he has studied their landmark agreement on "proposed interim changes to the Labour Relations Act." Louw expects to refer the proposals to the National Manpower Commission by early June.

In a joint statement, Saccoa, Cosatu and Nactu said the goal of their two years of discussions on the 1988 Act was to achieve law that enjoyed the confidence of all major actors. The proposals are the first tangible result of compromise by the three parties. If incorporated into the Act, the changes "will represent a major step towards broadly supported 'rules of the game'."

The proposals restore the definition of unfair labour practice that existed before the 1988 Act. They remove union liability for damages in illegal strikes, extend or abolish the time limit regarding dispute declaration, take race out of the registration process, and mirror ILO convention on dismissal and re-election. They also aim to scrap the Industrial Court's power to interdict legal strikes and lockouts, and revise secrecy provisions of the court's judgments. Basic worker rights include the right to strike and bargain collectively.
can't be applied in its present form.

It has taken government nearly five years to agree to extend labour law reforms to farm workers after being given a report on the matter by the commission in July 1985. The report has never been made public but it is reliably understood to have recommended the moves Louw has now announced.

Government repeatedly claimed delay in releasing the report was due to the wide-ranging nature of consultations that were necessary before any action could be taken.

The real reason was, however, apparently the unacceptability of the recommendations within the conservative farming community. But there were strong indications last last year that organised agriculture was moving towards the acceptance of a better deal for workers (Current Affairs October 27, 1989).

Government came under pressure this year when the Labour Party refused to discuss labour or agricultural legislation in Standing Committees as a protest against government's reluctance to reform farm labour measures. In reaction to Louw's announcement, the LP has agreed to co-operate again.

The CP's Frank le Roux warned it was dangerous to extend labour laws to farm workers because it could lead to rationalisation of the labour force and increased urbanisation. He added there were about 1.5m workers on farms and another 6m people depended on their earnings.
SA comes in from cold at labour conference

Labour Reporter

South Africa is to take its first tentative step back into the world labour arena next week when local unionists, employers and Government representatives attend a mould-breaking conference in Harare convened by the International Labour Organisation (ILO).

South Africa was expelled in 1966 from the ILO, a United Nations agency representing the world's employers, unions and governments.

The National Manpower Commission and the Department of Manpower, union federations Cosatu and Nactu and the employer body Sacola will be represented at the four-day "consultative workshop", which will centre on future South African labour law in the light of international standards.

Also present will be representatives of the ANC and the National African Federated Chamber of Commerce and Industry.

It is understood that organisation of African Unity reservations about the meeting were only overcome when the ANC's Nelson Mandela wrote to the ILO giving his personal endorsement. The initiative for the conference apparently came from Cosatu.

Clive Thompson, workshop co-ordinator and director of the Labour Law Unit at the University of Cape Town, said it would be the first time the major industrial relations actors in South Africa had met under the auspices of an international agency to debate future labour law.

ATLANTIS BUYERS CO-OPERATIVE
Louw reacts to labour accord

THE accord between the employer federation Sacola and the union groups Cosatu and Nactu contained proposals on a far wider spectrum than provided in the draft Labour Relations Amendment Bill, the Minister of Manpower, Mr Els Louw, said yesterday.

Those proposals which were not reconcilable with the draft bill would have to be referred to the National Manpower Commission for consideration and recommendation to him after all other interested parties had been granted the opportunity to comment.

But he was willing to discuss the accord with Sacola, Cosatu and Nactu "as early as Tuesday, May 15." Mr Louw's statement indicates that although he feels the proposals go further than the ambit of the draft amendment bill, and therefore by implication cannot be considered together with it, the momentum gained in the accord should not be lost.

However, despite the proposed meeting on Tuesday, it seems unlikely that key aspects of the Saeola/Cosatu/Nactu agreement will be submitted to Parliament during the current session.

PLANS to privatise state forests could be catastrophic for consumers and push up the price of houses, Mr Rupert Lorimer, Democratic Party MP for Bryanston, said in Parliament yesterday.

Mr Lorimer said that late last year, the Department of Forestry had announced an average increase of 29.6% in the price of sawlogs, apparently as a prelude to privatising the forests.

He said the results of the increase for consumers could be catastrophic.

"The biggest user of sawn timber is the building industry. This inordinate price increase would push up building costs excessively and, in turn, push up the price of houses to a stage when South Africa faces a housing crisis."
Unions want their own seat at the Groote Schuur table

Flushed with their success at pushing through an amendment to the Labour Relations Act, the unions want a seat at the negotiations table, where labour representatives are notably lacking. EDDIE KOCH reports for the Azanian Peoples Organisation (Aazapo), told the Weekly Mail: “For us it is extremely worrying that the ANC’s negotiating team had no trade union representation. They left out the most crucial element in the equation — the black working class.”

Said Nadoptoo, “The Groote Schuur talks were about preparing the ground for negotiations rather than the substantive issues of concern to us, the social economic and political conditions facing our people.”

“Another reason, Cosatu’s central executive committee resolved it was not necessary to be physically present in these talks and we relied on consultations made possible by the alliance between Cosatu, the ANC and the South African Communist Party. Now that the talks are entering a new phase we have decided to send our own delegates.”

Cosatu has launched a programme to draft a workers’ charter as a matter of urgency and plans to hold a joint congress with Nactu in September or October to adopt the document. At least three drafts have been circulated among affiliates for discussion.

“Discussions over a workers’ charter will feed into negotiations and affect policy on a range of issues including housing, education, the nature of a post-apartheid economy,” said Nadoptoo.

He confirmed that Cosatu and Nacute’s agreement with the Consultative Committee on Labour Affairs (Saccola) to resuscitate South Africa’s labour legislation had encouraged the federation to enter the negotiation process.

Labour experts say the agreement to remove parts of the Act designed to hamstring the power of organised labour is unique in the world. It capped a two-year period of tripartite discussions between organised labour, big business and the government.

Manpower Minister representative Johan Miller has confirmed that the draft law will urgently be put through the procedures that are needed for it to be tabled in parliament before its current sitting ends in June. If the government fails to translate the draft into law, Saccola has agreed to urge its members — which include most of the country’s major employer associations — to abide by the principles of the agreement in their dealings with unions.

Nadoptoo said the unions’ victory over the LRA, together with the relaxation of repressive legislation that has accompanied national negotiations, would strengthen organised labour’s ability to shape South Africa’s future.

“Any measures to create free political activity will strengthen our position on the ground,” he said. “This has been identified as a central task in all sectors — trade unions, youth, students, women, civics and building a mass-based ANC.”

There are signs that the Pan Africanist Congress is winning support for its radical stand against negotiations.

WEEKLY MAIL, May 11 to May 17, 1990
Back to work for hospital workers

IT WAS back to work for thousands of Reef hospital workers yesterday morning, but most hospitals crippled by the 10-day strike will only be functioning normally by Monday, according to hospital staff.

Granting de facto recognition to the National Education, Health and Allied Workers Union (Nehawu), the Transvaal Provincial Administration on Thursday agreed to a wide range of union rights and the end to discriminatory labour practices in the health services.

Victories

Strike negotiations ended in a number of apparent victories for Nehawu. The TPA has agreed that the practice of employing health workers as casual labour would end and all employees would in future be defined as permanent workers. The TPA also agreed to stop any wage discrimination based on race, sex or marital status.

Hailed as a major victory, by health workers, was the fact that Nehawu had won the right to be consulted in cases where hospitals may be privatised.

Wage negotiations between the authorities and Nehawu are expected to begin within the next fortnight.

"The end to the strike means that weekend casualties will be admitted as usual at most Reef hospitals," said TPA liaison officer Piet Wilken.

Mr Wilken said that although most workers had returned to Reef hospitals by yesterday — the deadline for their return lapses tomorrow morning.

All hospital workers at the Johannesburg Hospital had returned to work by yesterday, according to hospital liaison officer Jenny Gilwald.

Backlog

"We have a backlog of patients as a result of the strike, but we're expecting things to be running smoothly by Monday," she said.

Baragwanath Hospital liaison officer Hester Vorster said all striking hospital workers had returned to work by 8 am yesterday morning. But she added that the hospital would only be functioning normally by Monday.

A Natalspruit Hospital nursing sister said the hospital — one of the worst hit by the strike — was functioning smoothly once more.
Hospital strikes spotlight a raw deal

MAGNIFICA

SEE PAGE 9

WARM UP

FACE AND PLACE OF THINGS IN SOUTH AFRICA

MARCH 1990

SUNDAY TIMES BUSINESS TIMES
SA on verge of ILO breakthrough

A MEETING in Harare next week could be the first step towards South Africa's readmission to the International Labour Organisation.

The meeting will be attended by senior representatives of the Government, employer bodies and the trade unions, international experts of the ILO will also be present.

The conference will be chaired by a member of the ILO's Committee of Experts, Sir John Wood.

South Africa was expelled from the ILO in 1966.

Labour experts describe next week's Harare meeting as "a dramatic breakthrough".

The meeting has been organised by the Equality of Rights Branch of the ILO following representations made by the Congress of SA Traders Unions (Cosatu).

Mr Clive Thompson, director of the Labour Law Unit at the University of Cape Town and a co-ordinator of the event, said the meeting would begin in Harare on Monday and end on Thursday.

The talks are historic in that representatives of the South African Government will have official contact with the ILO after a lapse of 24 years. It will also be the first time that the ILO has engaged other SA parties at this level.

It will also be the first time that representatives of the Government, organised labour and industry have met together in a joint forum at the same time.

The meeting comes hard on the heels of the signing last week of an agreement between organised industry and labour, SACC (the SA Coordinating Committee on Labour Affairs) and Cosatu (the SA Coordinating Committee on Labour Affairs) and Cosatu/Nactu respectively, on interim changes to the Labour Relations Act, which may become law during the next parliamentary session.

The task of the Harare Workshop will be to coordinate National Manpower Commission proposals, released in April, on a broad consolida-

SA labour legislation will be examined against the benchmark of ILO conventions and recommendations.

Mr Thompson said the workshop would attempt to establish a basic consensus among the principle parties involved in industrial relations "to secure an equitable framework of labour legislation under a future democratic dispensation".

The meeting will be attended by members of the National Manpower Commission, the Department of Manpower, SACC, Cosatu, Nactu, the ANC and Nafoa International experts from the ILO will also be present.

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Proposals on revised Labour Act delayed

The National Manpower Commission will submit its proposals on a revised Labour Relations Act to the Minister of Manpower during 1991 and not at the end of this year as originally planned.

According to NMC acting chairman Dr Frans Barker, the delay arose because some interested organisations were unable to submit their representations by the original due date, May 18.

The return date for representations on proposed changes to the LRA has been extended to June 20.

A further postponement is not possible, Dr Barker said yesterday.

The invitation relates to parties wishing to comment on the working document of the NMC technical committee on the revision and consolidation of the LRA.

Oral representations will be made from June 26 to 29 and organisations were asked to submit brief summaries of their representations by June 6.

Those organisations wishing to keep to the

original dates for oral submissions can do so on May 21 and 22.

The NMC’s intention had been submit its proposals on a revised LRA to the Minister of Manpower by the end of 1990. - Sapa
Minister to meet union men

The Minister of Manpower, Mr E.L. Louw, is to meet a delegation of employers and trade unionists on Friday, to discuss proposed changes to the Labour Relations Act.

A spokesman for the Minister yesterday said the meeting would focus on the changes proposed by Cosatu, Nactu and Saccola.

This will be the second time in many months that these parties meet to discuss amendments to the labour law.

The amendments, contained in an agreement between the two federations and Saccola, include proposals on a new definition of the unfair labour practice.

* See Page 8
Demos to continue in W. Cape

The nationwide "action week" of demonstrations and marches called by the Congress of South African Trade Unions will continue in the Western Cape today.

Thousands of workers in the harbour, Paarden Island, Salt River, Epping, Montagu Gardens, Atlantis and Paarl are demanding that the Labour Relations Act be amended, that workers be paid a "living wage" and that a workers' charter be implemented.

They are also campaigning against privileges at work.

They are demanding that these measures become written law before the current session of Parliament ends.

A Cosatu spokesman said yesterday the workers would also be protesting against the proposed privatisation of the public sector.
SA labour facing the 'acid test''

A landmark in South Africa's labour history, last week's employer-union accord on the Labour Relations Act, can be seen as the fruit of the new era of negotiations.

DREW FORREST, The Star's Labour Reporter, reports.

The black labour movement would be one of the architects of our future, a prominent labour consultant told a conference last week and his words have been dramatically confirmed by the Labour Relations Act (LRA) accord clinched between unions and employers.

Nothing more clearly demonstrates the growing power, sophistication and tactical flexibility of Cosatu/Nactu than the agreement reached with the employer body. Saccola, after two years of negotiation, coupled with mass protests against the LRA.

This is not to detract from the role of the employers, who have shown courage and sensitivity to the broader climate of conciliation in South Africa. The agreement can be seen as one of the first tangible fruits of the new era of negotiations.

It may also be the first time anywhere that these old foes have struck a deal on the statutory framework for their relationship.

If it is translated into law — it has been forwarded to the Government for enactment in the session of Parliament — it will substantially redress union complaints about the controversial 1988 amendments to the Act.

Manpower Minister Eli Louw has told the unions he will try to process the accord this session, which may not be technically feasible, but which marks a shift in Government thinking.

Cosatu/Nactu are to press for further changes, including the extension of the Act to farm, public service and homeland workers, full strike rights and "impartial and competent courts." They also want the Saccola forum to start debating "macro" issues such as housing and education.

In addition, the agreement sets up specialist sub-committees to probe further the industrial and labour appeal courts, and the issue of strikes.

Besides its symbolism, the agreement will have a major impact on day-to-day workplace relations if it becomes law.

It embodies a set of basic worker rights — including the right to strike and to work — which Saccola will try to get its members to follow.

By reverting to the pre-1988 definition of unfair labour practice, it removes the ban on sympathy and repeat strikes and consumer boycotts. Only unlawful strikes would remain unfair and subject to interdict.

Race is no longer an "interest" in union registration, and the controversial Section 79 (2) of the LRA, which broadened union exposure to damages actions in illegal strikes, has been scrapped.

In some ways, the accord improves on the pre-1988 position. The unfair labour practice definition has been broadened to include fair dismissal and retrenchment procedures in line with International Labour Organisation standards.

An immediate benefit for industry is the suspension of the labour movement's LRA campaign, which has entailed two stayaways and a national overtime ban.

But some employers are clearly worried that too much has been conceded. This was reflected in Saccola counter-proposals to the original draft agreement after a report-back to its affiliates.

Saccola chairman Mr Anton Roodt warned last week that an acceptable industrial relations order depended not just on the letter of the law, but on "the spirit in which the parties approach each other."

"The agreement is seen by employers as a high-risk venture," said one management source.

"The acid test will be a drop in rapidly escalating levels of industrial unrest.

The agreement is seen by employers as a high-risk venture," said one management source.

"The acid test will be a drop in rapidly escalating levels of industrial unrest."
Historic talks on SA labour law

HARARE. — In the first meeting of its kind, representatives of the International Labour Organisation (ILO) yesterday sat down here with delegations from Cosatu, Nactu and the South African government to discuss labour laws for a post-apartheid society.

However, the National Manpower Commission (NMC), which said yesterday that its management had not been invited to participate, said the meeting had no decision-making power because of its exclusion. The commission will be represented only by members of its technical committee on the Labour Relations Act (LRA).

But Mr Neville Rubin, the senior official in charge of the ILO's equality of rights branch in Geneva, said the chairman of the NMC, Dr Frans Barker, had been invited "at the specific instigation of Cosatu".

Mr Rubin stressed that the meeting was not discussing the readmission of SA to the ILO — from which it was expelled 20 years ago.

Yesterday's discussions were chaired by Sir John Wood, one of Britain's leading experts on industrial law. — Own Correspondent and Sapa
MANPOWER Minister Elz Louw is scheduled to meet representatives of Cosatu, Nactu and Saccola on Friday for discussions on the historic agreement reached by organised business and the unions on changes to the Labour Relations Act.

The date of the meeting, where the Minister intends asking for clarity on "vague or unclear" aspects of the agreement, was confirmed by Saccola and Manpower officials.

But it appears there could be conflict between government and the unions over whether the agreement is translated into law this year.

Cosatu announced yesterday it had decided to stage a "national day of action" next Tuesday to demand that the agreement be made law during the current session of Parliament.

According to Louw, he had undertaken "to make all reasonable endeavours to put those proposals which are reconcilable with the draft Amendment Bill through Parliament this session". However, the agreement he received contained proposals "on a far wider spectrum" than those provided for in the Bill.

The Bill relates to certain limits regarding dispute procedures and the liability of unions for damages sustained in unlawful strikes.

Cosatu also said it would be making representations to the National Manpower Commission next week on the commission's investigation into restructuring the Act.
Cosatu in move to push ‘Saccola accord’

Labour Reporter

The million-strong Congress of SA Trade Unions is to stage a national day of action next Tuesday to demand the enactment of the “Saccola accord” on the Labour Relations Act during this session of parliament.

Involving factory protests, industrial area marches and rallies, the action was decided at Cosatu’s Campaigns Conference in Johannesburg at the weekend.

A statement said the protests, which in some areas would last the whole week, would also focus on the federation’s anti-privatisation and Workers’ Charter campaigns.

Last week, Manpower Minister Eli Louw gave a strong hint that the LRA accord between Saccola and Cosatu/Nactu might not reach the statute book this year.

Mr Louw said it had been agreed at his recent talks with the unions that the accord should reach him in April. It would then go the National Manpower Commission for recommendations, and broad consultation would be necessary on any amendments. The current parliamentary session ends in less than two months.

Mr Louw said he had only offered to push through proposals related to the draft LRA Amendment Bill leaked to the press early this year.

This is far narrower in scope than the far-reaching proposals in the Saccola accord.

Minimum wage campaign

Other resolutions at Cosatu’s Campaigns Conference were:

- That the campaign against Barlow Rand, accused of undermining central bargaining, should be intensified.
- That a campaign on the Unemployment Insurance Fund should be launched.
- That discussions should be held on launching a national minimum wage campaign, to complement the campaign for a living wage.

The conference endorsed a Cosatu central executive committee decision to stage a week of action from July 1 focusing on the Natal violence.
White unions urged to join black in search for better labour laws

By Robin Drew,
The Star's Africa News Service

HARARE — White trade unions in South Africa were yesterday urged to join the two major black umbrella bodies, Cosatu and Nactu, in continuing discussions on how best to formulate better labour laws.

The appeal came from leaders of both bodies who had been attending a three-day workshop in Harare under the auspices of the ILO at which a South African Government advisory body was also represented.

It was disclosed that a lawyer representing white trade unions, Mr Jan Hurter, also attended the Harare meeting as a member of the National Manpower Commission delegation headed by Dr Franz Barker.

At a press conference after the workshop which was in closed session, Mr Jay Naidoo, general secretary of Cosatu, said the Government had accepted it would have to consult with the labour movement and stop viewing it as hostile.

But he said a positive response from the Government, particularly in relation to the interim draft agreement reached by Cosatu and Nactu with the employer body, Saccola, was essential.

“We are not prepared to continue endless debate with no result being seen,” said Mr Naidoo.

Asked about working class white reaction to current events, Mr Naidoo said “If we could talk to them, it would be fine. But it is very difficult to talk when they point a gun at you. We are hopeful, however, that all workers, black and white, will recognise their common interests.”

Dr Barker said he fully agreed the discussions in Harare had been very frank and very constructive. It had been very valuable for the Manpower Commission to have interaction with the ILO.

South Africa left the ILO in 1966 after the International Labour conference had adopted a strong declaration on apartheid in 1964.
THE strike that crippled several Transvaal hospitals over the past week is the latest example of militancy that has swept the public sector.

Like a Trojan horse within the heart of the state’s institutions, thousands of government employees at homeland institutions, the post office, railways, schools and security services this year have embarked on industrial action designed to force the authorities to listen to their demands.

As public sector workers, they are not entitled to protection under the Labour Relations Act.

Bargaining

They have been denied union recognition. Because they do not have the right to collective bargaining, they earn pitifully low salaries without job security.

There are cases of general assistants earning as little as R240 a month after years of service with the administration.

Moves by the state to privatise the public sector present a massive threat to jobs and workers’ ability to take united action.

Civil Rights Union (Popcru).

Several other unions such as Nactu’s NUPSW and black staff associations have indicated interest in joining the protest action.

Even white public servants are learning the lesson that militancy brings tangible gains.

When parliament opened, members of the conservative South African Nursing Association marched to protest for increases.

White Transnet workers took industrial action last month — the first ever in the industry.

Settlement

The most spectacular victory won by workers was the settlement that brought an end to a 16-day strike which crippled Cape provincial hospitals in March.

The strike was the largest public sector strike ever experienced in Cape Town. It was considered unusual as strikers were not dismissed and the strike received strong sympathy from other members of the medical staff, including the hospital superintendent, Dr Jocelyn Kano Berman.

The strike was suspended after the authorities agreed to guarantee job security, grant maternity benefits, negotiate with the Health Workers’ Association and increase pay.

Cosatu and Nactu are demanding that labour legislation is extended to cover all workers in South Africa.

The recently-completed report on changes to the LRA by the Manpower Commission includes similar recommendations.

Clearly, the days of excluding civil servants from labour legislation are over. Workers have shown themselves willing to embark on extensive industrial action with or without the sanction of law.

The involvement for the first time of nursing staff in the Johannesburg strike indicates that militancy is spreading to professions which have previously passively accepted being underpaid and overworked.

What will have to be ironed out is just how far workers in essential services can go in expressing grievances.
Workers will be meeting at five centres in Cape Town on Thursday to discuss the Workers' Charter.

The centres are the Sactu hall in Salt River, the Samwu hall in Athlone, the Premier hotel in Guguletu, the Dorothy Boeskool Centre in Bellville, the Necro Centre in Eastridge and the Saxon-sea Civic Centre in Atlantis.

This is a follow-up to the widespread distribution of questionnaires around the charter and is part of the preparation for the workers' charter conference scheduled to take place in October.

Volunteers and information: 1386982318

Cosatu delegates at the campaigns conference at Wits university last weekend.
ILO standards seen as a guide for SA

HARARE — Standards laid down by the International Labour Organisation (ILO) should be used as a guide for the establishment of new labour laws in SA.

This was said in a joint statement by SA delegates to a three-day ILO seminar, which ended here yesterday.

The delegates represented Cosatu and Nactu, the National Manpower Commission and Saccola.

The statement described the talks as “a lively and constructive exchange of views” that would be taken into account when labour and employers’ organisations put forward proposed amendments to SA’s labour relations laws in the future.

Among topics discussed were international labour laws, collective bargaining procedures, strikes and basic worker freedoms, including a vote in national affairs.

National Manpower Commission acting chairman Frans Barker said he would be reporting back to Manpower Minister Ett Louw.

“It is very difficult to revise and redraft labour legislation in isolation. We appreciate the opportunity to have had this interaction with the ILO,” he said.

Cosatu general secretary Jay Naidoo said the meeting “demonstrated how out of line with international

[In the past, he said, “we have constantly tried to talk to the government... it is important that the NMC and the government now accept they will have to consult with the labour movement.

“We are not prepared to continue endless debate. We have to see this transformed into action,” Naidoo said.

He said the Harare meeting was arranged before political reforms were announced by President F W de Klerk.

Coomingham Ngcukana, representing Nactu, said his organisation did not envisage a future democratic SA following the same path as many of its neighbours, where in some cases labour unions have been suppressed, workers’ rights ignored and strikers detained.

“Given the history of our trade union movement and the commitment of the liberation movement to independent trade unions and collective bargaining determined by the main players, I don’t see any problems,” he said.

British ILO official Sir John Wood, who chaired the meeting, described the Harare talks as exploratory.

No further meeting was scheduled at the present time, he said. — Sapa.

AP.
Cosatu calls for ‘action’

COSATU has called for a “national day of action” next Tuesday to force the Government to pass a labour law that encompasses changes proposed by trade unions and employers during the current session of Parliament.

The call comes on the eve of a meeting between the Minster of Manpower, Mr E M Louw, Saccoola, Nactu and Cosatu.

They are scheduled to meet in Pretoria tomorrow to discuss the proposed changes. The meeting follows an agreement between the employers and the two federations on amendments that should be included in the Labour Relations Act.

By LEN MASEKO

By yesterday, it could not be established what form the “national day of action” would take.

Cosatu spokesman could not be reached for comment.

The call was made at a “Living Wage” conference attended by about 250 Cosatu delegates at the University of Witwatersrand last weekend.

The delegates resolved, among other things, to:

* Call a two-day meeting this weekend to discuss the launch of the anti-privatisation campaign, and
* To step up the campaign against Barlow Rand for “undermining the collective bargaining process”.

A Department of Manpower spokesman said the Minister would not comment on the issue at this stage.

This week the National Manpower Commission, which was asked by the Minister to review the labour legislation, said it would submit proposals on the revised LRA to the Minister during 1991 - not at the end of this year as originally planned.

This meant that the proposed amendments could be enacted only next year - something that is likely to spark new row between the State and the unions.
Minister, unions to discuss accord

Labour Reporter
Demands for the swift enactment of the watershed "Saccola accord" on the Labour Relations Act (LRA) are set to dominate today's meeting between Manpower Minister Eli Louw and employer and union representatives.

Attending the talks will be union federations Cosatu and Nactu and the employer body Saccola, which last week agreed on proposals for wide changes to the LRA.

Union demands for these to be made law during the current parliamentary session are developing into a major flashpoint.

Mr Louw has hinted that this might not be possible, while Cosatu plans nationwide marches, protests and rallies next week to underscore the demand.

In a statement, Mr Louw singled out the following difficulties:

• The accord had been promised to him last month, and had to go to the National Manpower Commission (NMC) for study and recommendations.
• Consultation to ensure the broadest possible consensus would also be needed.

• He had agreed only to try to push through proposals which related to a draft LRA amendment Bill. The Saccola accord had a broader scope.

New proposals, including those relating to the unfair-labour-practice definition, termination of service and union rights of public servants, would also have to be referred to the NMC and all interested parties for comment.

The meeting with Mr Louw comes in the wake of a historic conference in Harare, convened by the International Labour Organisation and attended by the NMC, Saccola, Cosatu and Nactu, on future South African labour law.

After the conference, Cosatu's Jay Naidoo warned that the unions "were not prepared to continue endless debate (on the LRA) without result".

Apprenticeships popular again

Labour Reporter
A steady, six-year downswing in the number of apprentices entering industry has been dramatically reversed, Manpower Minister Eli Louw revealed last night.

Speaking in Johannesburg, Mr Louw said new apprenticeship contracts had fallen from a peak of 14,500 in 1982 to the "alarmingly low" figure of 7,900 in 1988.
LABOUR LAW DISCORDS

Not all the Saccola-Cosatu-Nactu proposals on changing the Labour Relations Act are reconcilable with the draft Amendment Bill. And the historic employer-union agreement also contains proposals on "a far wider spectrum than those provided for in the Bill," says Manpower Minister Eli Louw.

However, this does not look like cause for alarm. The minister will meet the three parties to clarify matters this Friday, before referring the proposals for consideration by the National Manpower Commission, which will in turn advise Louw on the apparently irreconcilable parts.

In terms of the Bill, the minister was expecting proposals relating specifically to "certain time limits in the Act, as well as to the accountability of trade unions for compensation in the case of unlawful strikes."

The main points of the Saccola-union proposals that will now have to be ironed out concern:

☐ Their new definition of unfair labour practice, which "does not include the guidelines on fair conduct included in the present definition;"

☐ New provisions on the termination of service which "omit the right of parties to regulate the termination of service by agreement;"

☐ Legal remedies available for unfair strikes and lockouts are omitted;

☐ Certain provisions protecting the freedom of association are omitted,

☐ The protection of servicemen is omitted,

☐ Provisions which curb unfair sympathy strikes, lockouts and boycotts are omitted, and

☐ The competency of civil servants to belong to unions is addressed, but without prior consultation with existing staff associations.
Johannesburg — After nearly seven hours of tough talking on Friday, Manpower Minister Eli Louw, Cosatu, Nactu and Saccola agreed that amendments to the Labour Relations Act proposed by the latter three would be published in a special Government Gazette for comment this week.

The meeting, described by one source as even more historic than that two weeks ago at which the union-Saccola agreement was signed, has revived hopes that the agreement could still be translated into legislation this year.

However, much uncertainty on this score remains, and it appears the usually antagonistic employers and unions are to be involved in an intensive lobbying effort to ensure their agreement does become law within the six weeks before Parliament is adjourned.

Proposals

Louw said after the meeting that in addition to having the draft Bill published in a special Gazette on Wednesday, the proposals had been referred to the National Manpower Commission for comment as soon as possible.

Saccola spokesman Bobby Godsell said his organisation “continues to be hopeful” this could be achieved.

Nactu acting general secretary Cunningham Ngubane said “But if it does not happen, we will have to recommend to our members that there be no further co-operation with the minister, the NMC or any other arm of the state.

“We took a political risk in talking to the minister, and we expect reciprocation.”
Big breakthrough in SA labour talks

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"We took a political risk in talking to the minister, and we expect reciprocation."
Mass stayaways in Transvaal

Staff Reporters

Work stayaways, marches and factory demonstrations erupted across the Transvaal yesterday as thousands of workers took part in the Congress of South African Trades Unions (Cosatu) "day of action" on the Labour Relations Act.

Sapa reports that police arrested 123 demonstrators on the East Rand and that teargas was used to disperse marchers in central Johannesburg.

The Cosatu action was designed to press the Government into enacting a union-employer accord on the Act before Parliament goes into recess.

A national picture could not be obtained yesterday, although hundreds of shopworkers staged protests in Port Elizabeth.

Major industries in the Eastern Transvaal were hit when the protest, fuelled by local grievances, mushroomed into full-scale stayaways.

A Sasol spokesman said very few black workers had turned out at the Secunda plants and Anglo American reported a complete stayaway of workers from all divisions of Highveld Steel in and around Witbank.

A Cosatu spokesman in Secunda said between 40,000 and 50,000 people had taken part in a march through eMbalenhle township to the council offices.

Police reported that teargas was used on several occasions in eMbalenhle to disperse youths setting up roadblocks. A coal truck was burnt near Secunda and there was sporadic stoning of vehicles.

In Witbank, where a boycott of white businesses is taking place, the town centre was deserted.

In Germiston, an estimated 5,000 unionists from three industrial areas marched through the city at lunchtime yesterday.

Police said 128 people had been arrested for obstructing traffic during marches in Kempton Park, Spartan and Isando.

Postal and commercial workers staged separate marches in the Johannesburg city centre yesterday, one to the Stock Exchange, and, according to Cosatu regional secretary Amos Mazondo, there was a partial stayaway in Industria.

Demonstrations were also reported from Elandsfontein, Wadeville and Edenvale. A union source said thousands of workers had marched from Vereeniging to Sebokeng.
Some of the many workers who took to the streets throughout the country yesterday in an attempt to pressurise the Government to legalise the changes to the Labour Relations Act proposed by Cosatu, Nactu and employers. The federations' members marched on the Department of Manpower offices in Johannesburg and Germiston to deliver petitions.
Court deals blow to whites

The all-white Mineworkers Union — and by implication the white labour movement — has been dealt a severe blow in a key Industrial Court judgment.

The court this week upheld the refusal of Anglo American's East Rand Gold and Uranium Company to formally recognize or bargain with the MWU on account of its racial constitution.

Ergo was justified in not wishing to follow retrogressive policies which would be increasingly anachronistic in a new South Africa, said court member Ameen Bulbulia.

In a statement, Anglo stressed that the ruling did not stop workers from belonging to the MWU, with which it would maintain informal dealings.

The MWU went to court in February, arguing that Ergo was unfairly refusing to bargain in good faith and thwarting freedom of association.

Lawyers said the judgment could provide a legal basis for stripping racial unions of existing bargaining rights. — Labour Reporter
Although the application of source industrial relations theory is still at a developing stage, black trade unions have achieved more gains in industrial democracy during the last decade than their white counterparts.

This forced employers to pay attention to work-place industrial relations.

The purpose of this article is to present a historical overview of the system of control, resulting in a dormant and limited labour movement that kept unionism latent among the black workers.

Coercive employment practices:

In 1841, the “Master and Servant Ordinance” in the Cape Colony was passed as a coercive employment practice, which oppressed black workers. In 1936 workers faced a severe penalty for refusing to work overtime or for going on strike. This was only removed in the late 70s.

In order to control and hinder their movements, an appendage by law forced them to carry passes.

The discovery of gold in 1886 — further entrenched exploitation as black workers were classified as servants and through taxation, they were forced to earn wages. This promoted discriminatory employment conditions and practices.

In 1910, the “colour bar” was introduced in the labour market with the contract system to control labour mobility.

Black workers, in the rural areas, had no skills to use as bargaining weapons.

The pass system and “influx laws” reinforced colour. Black unions were unacceptable. Thus, the idea that workers could not be employed in labouring jobs at low wages became increasingly a part of the values and thinking of that time.

Racialism in labour legislation:

The 1924 Industrial Conciliation Act and other legislation reinforced the colour bar on free movement and freedom of association.

According to the Industrial Disputes Act of 1909, two preconditions were established. Black workers were excluded from the definition of employees in the Labour Act, resulting in white workers forming an alliance with employers to prevent the emergence of black unions.

In addition, the Racial Assemblies Act of 1914 gave the government powers to deal accordingly with strikes and also to prohibit illegal gatherings, which were viewed as endangering public safety.

Hence, the basic features of these and other laws were entrenched in the Industrial Conciliation Act, excluding contracted black workers from the definition of employees.

The practical effects which these legislation had on the character of the labour movement were profound.

In some industries, there was a decline in membership and alienation from union leaderships, particularly among blacks as a result of constant harassment by the police.

The state as protector of the interest of the dominant class as a whole ensured that white workers were not subjected to any form of job or skill competition with their black counterparts, thus co-opting white workers on its side.

In the early 1970s, Afrikaner workers began, as they had tried from the beginning of the century, to organise into trade unions and challenged the dualistic structure of industrial relations.

During this decade, black trade unions managed to challenge certain apartheid laws.

In the past, a central problem in the development of black unions has been to wage a struggle against management’s resistance to unions, state hostility and white unions.

Prior to the 70s, there had been major repressive attempts to control or to clamp down on African labour movements.

During World War II, and in the early 1950s and early 1960s, each wave of unionisation was followed by repressive legislation.

The implication of state intervention had serious consequences by hampering the development and growth of black trade unions.

The 1973 Natal strikes were a milestone for the labour movement as thousands of black workers forced employers and the government to review labour laws. Thus, the commission of inquiry chaired by Professor Nic Wehahn was set up in 1977.

The establishment of the commission was a non-event as several commissions of inquiry had been set up by the government in the past and did not bear fruit for the labour movement.

The previous commission was appointed 30 years earlier, Consequently, the existing Industrial Conciliation Act (1956) was amended. Since then, conditions and practices in the field of labour have developed and changed considerably.
RINGING THE CHANGES

The Saccoa-Costatu-Nactu proposals on changing the Labour Relations Act were published on Wednesday in the Government Gazette for general information and comment. This follows Manpower Minister Etlouw's initial reservations about the historic employer-union accord (Current Affairs May 18) and a marathon session of talks with all parties last Friday to clarify certain aspects and omissions.

Louw says that as well as having the Draft Amendment Bill published the proposals have been referred to the National Manpower Commission for consideration and recommendation as soon as possible.

He adds the parties committed themselves "to taking all reasonable steps to have the agreement translated into legislation as a matter of urgency" - which could see the proposals through parliament in the current session.

FINANCIAL MAIL MAY 25 1990
A passerby takes a closer look at a placard demanding government implement the new draft Labour Relations Bill during a lunch hour protest in Johannesburg this week, part of a “week of mass action” throughout the country. Placard demonstrations and marches were held throughout the country in the campaign organised jointly by the Congress of South African Trade Unions (Cosatu) and the National Council of Trade Unions (Nactu).

Picture: Associated Press

WITH YOUR HELP OUR CHILDREN LIVE

Cheque
Promise of quick move to enact Saccola labour accord

Labour Reporter

Manpower Minister Eln Louw has agreed to take all reasonable steps to translate a union-employer accord on the Labour Relations Act into law as a matter of urgency.

The announcement, described by unionists as "a partial breakthrough", follows the Minister's meeting with the employer body Saccola and union federations Cosatu and Nactu on Friday.

Mr Louw also announced that a draft amendment Bill based on the Saccola accord would be published for comment on Wednesday.

Before Friday's talks, the Minister indicated that only proposals relating to an earlier draft Bill, much narrower in scope than the Saccola accord, could be enacted.

Cosatu negotiator Marcel Golding said unions would meet the National Manpower Commission this week. The aim was to quit draft legislation before the Cabinet by June, he said.

Mr Golding stressed that despite significant progress at Friday's meeting, Cosatu's nationwide protests to demand the enactment of the Saccola agreement would go ahead this week.

Nactu's Cunningham Nyekana said the enactment of the Saccola proposals was a question of political will.

"The Minister stressed the technical difficulties. As we are not represented in Parliament and have no say in how it runs, this is not our concern," he said.
Cosatu pressure to get Bill passed ‘was futile’

TRADE union action aimed at forcing enactment of a new labour law during the current parliamentary sitting was futile as its promulgation was not a “matter of political will”.

This was said on Friday by Mr Johann Muller, a spokesman for the Minister of Manpower, when asked to comment on efforts by Cosatu to pressurise the promulgation of the draft Labour Relations Amendment Bill.

“Everybody would like to see the Bill tabled before Parliament this year, but it has to go through the normal process of legislation,” he said.

He expected the Bill to be tabled before the end of June, but said its promulgation was not a question of the Minister, Mr Elou Louw’s, “political will”.

The draft law could not be “steamrolled”, and other parties besides the employer’s federation, Sacola, and Cosatu and Nactu trade union federations had to be consulted.

Any comments on the Bill – gazetted on Wednesday – must be submitted to the Department of Manpower by June 6, he said.

National Union of Metalworkers of SA researcher and member of Cosatu’s drafting team Mr Jeff Schreiner said “As far as we are concerned, processing the Bill in the current sitting is principally a matter of political will.”

The union federations and representatives of the Department of Manpower had agreed to a programme which would include the Bill being tabled by the second week of June - Sapa
Ministers meet union leaders

Regional differences and “divergent local circumstances and needs” would be accommodated, the CCLA envisaged, although these would not be majoritarian without the priorities.

BASIC worker rights and bringing public sector workers under the Labour Relations Act were discussed yesterday by two ministers and a trade union delegation.

The Minister of Mineral and Energy Affairs and Public Enterprises, Dr Dawie de Villiers, and the Minister for Administration and Economic Coordination, Dr Wim de Villiers, said in a joint statement: “The discussions took place in a good spirit.

“There was an open and frank exchange of views on important issues such as basic workers as well as the case for including public servants and postal workers within the ambit of the Labour Relations Act.”

The union delegation included the Post and Telecommunications Workers’ Association, SARH Workers’ Union and Cosatu.

They said the union delegation was advised to submit its views to the National Manpower Commission which was at present looking into these issues.

“It was pointed out that the government will decide on these issues once it has had the opportunity of studying the National Manpower Commission report,” the ministers said.
Go to drop racial trade union restrictions

By BARRY STREEK

THE registration of trade unions on racial grounds is to go...

Minister of Manpower, Mr E. Louw, yesterday told a South African Association of Municipal Employees (Saame) delegation that it was the policy of the government that, as a premise, race should not be provided in statutory enactments.

"Thus, the minister does not foresee that race can be seen as an industrial interest within the scope of registration of trade unions in future." Mr Louw and Saame said in a joint statement.

At present, trade unions can be registered for particular race groups or for membership of all races, but in recent years the number and membership of racially exclusive trade unions has been declining.

"Mr Louw's statement yesterday means that the government is to abolish these legally enforced racial restrictions in the registration of trade unions."
LABOUR LEGISLATION

1990

JUNE - DEC
A law that legislators forgot

By CLAIRE ROBERTSON, Pretoria Bureau

A particularly nasty little piece of labour legislation was quietly dealt a death blow in the Labour Appeal Court this month.

This effectively opens the way for thousands of black workers to claim access to labour structures such as the Industrial Court, conciliation boards and collective bargaining.

Contained in a 1970 proclamation, the 20-year-old legislation specifically excluded workers in "Bantu Trust areas" from recourse to the limited provisions of the Industrial Conciliation Act (now known as the Labour Relations Act) which applied to blacks.

This was later amended to make it clear that only "Bantu" workers in these areas were excluded from the labour protection contained in the Act. There existed at the time a dual system of labour relations— one set of labour laws for blacks and one set for whites.

The Labour Relations Amendment Act of 1981— and one earlier Act— effectively repealed the "black" labour legislation and removed racial tags from the "white" to create a unified system of labour relations.

But black workers in Trust areas were still left out in the cold because their exclusion from the Industrial Conciliation (or Labour Relations) Act was not specifically repealed by the 1981 legislation.

So the South African Development Trust (SADT) argued in a recent case.

The 1970 proclamation remained unchallenged throughout a decade of labour reform until, in 1987, about 330 Soshanguve workers approached attorney Nick de Villiers of the Legal Resources Centre in Pretoria for help in redressing what they saw as unfair retrenchment. Of the six cases so far dealt with, four were settled out of court by the SADT.

Then the Development Trust changed tactics and decided to challenge the jurisdiction of the Industrial Court in the matter.

It claimed the 1970 proclamation excluded the applicants from recourse to the Industrial Court as Soshanguve was a Trust area.

In a January 1988 application for interim relief involving a batch of 14 of the workers, the Industrial Court ruled that it had jurisdiction.

History

The SADT challenged this, and the matter was referred to the highest court in the labour hierarchy, the Labour Appeal Court. Arthur Chaskalson, SC, argued the matter and Mr. Justice J.J. Mynhardt, chairman of the Transvaal division of the Labour Appeal Court ruled in favour of the applicants. The 14 men will now take their case to the Industrial Court in October, but the ruling has implications for all workers living in black Trust areas.

The 30-page judgment traces the complex history of the relevant labour legislation as successive labour Acts overtook one another. Each granted slightly wider rights to black workers until, in 1981, the Labour Relations Amendment Act attempted to do away with racial segregation of workers' rights entirely.

But the 1970 proclamation was not included in the 63 detailed amendments of or inclusions to the old Industrial Conciliation Act that made up the Labour Relations Amendment Act of 1981.

It was, according to the applicants, forgotten by the legislators.

Mr. Justice Mynhardt said that as the 1981 legislation had repealed "black" labour legislation that did apply to the Trust land workers, if these workers were to be excluded from other legislation because of the proclamation they would have only common law to fall back on in labour relations with employers.

Had this been the intention of the legislator, one would have the "inexplicable situation" where those workers were suddenly denied access to labour mechanisms they had enjoyed for 28 years.

If this were the case, "for them the Labour Relations Amendment Act would have been a step backwards while for other black workers it was a great step forward."
Crisis talks on labour Act

The decision by Manpower Minister Eli Louw not to translate into law this year amendments to the Labour Relations Act — proposed in a joint union/employer agreement — was at least partly the result of pressure by four large corporations.

This emerged yesterday as parties to the agreement — Sacola, Cosatu and Naets — met for crisis talks on the decision — approved by the Cabinet on Wednesday.

It is understood Sasol, Eskom, Gold Fields and UK multinational BTR-Dunlop made submissions to the National Manpower Commission last month opposing, or expressing reservations about, the agreement reached in March

Spokesmen for Sasol and BTR yesterday each confirmed the companies had made individual submissions to the NMC on the agreement, but declined to elaborate.

In explaining the Cabinet decision, Louw said the NMC had received divergent comment indicating more time was required to study the proposals and their implications as they "drastically change the rights of both employers and employees".

A Manpower Ministry spokesman added yesterday that 81 parties had commented on the proposals.

 Asked whether the decision represented a rejection of the NMC's views, he said Louw "did not reject any proposals of the NMC, but indicated he could not disregard the comments by other interested parties".

Sacola spokesmen were unwilling to comment before their crisis meeting.

But Cosatu said the decision caused it "to seriously question this government's commitment to the process of political negotiations".

Alain Fine
Nationwide action looms over Labor Act

166

WEEKLY MAIL June 15 to June 21 1990
No action by Parliament on labour law

By CONNIE MOLUSI

The National Manpower Commission (NMC) opposes or expressing reservations about the agreement between the unions and employers.

However, the Cabinet gave Manpower Minister Eli Louw the green light to continue consultations with Cosatu, Nactu and Saccola.

The minister held a meeting with their representatives, who emerged tight-lipped.

Louw said in a statement that there had been a wide response to the Saccola-union proposals, which were published for comment.

The response indicated there had been insufficient time to study the proposals, which had economic implications and drastically altered the rights of employers and workers,” said Louw.

He suggested that more time be allowed for comment, but as an alternative offered to enact proposals on which adequate consultations had taken place.

Louw also offered to include a provision in the Act under which an agreement could be given statutory powers.

He said he hoped the process of consultation, co-operation and consensus-seeking between all interested parties would continue so as to achieve labour peace.

Cosatu has condemned the cabinet’s decision as “pandering to the majority employers and unions which enjoy little support.”

Nactu said the decision showed the minister was more concerned about his constituency than the interests of workers.

Saccola said in a statement that it regretted the delay in legislating the proposed changes.

“Saccola has today written to the Minister of Manpower with proposals to reconcile the parties’ desire to see legislation this year and the Cabinet’s desire to allow for further consultation,” it said.

“Saccola continues to commit itself to working constructively with Cosatu, Nactu, the Department of Manpower and the National Manpower Commission to this end.”
Govt accused of labour 'blunder'

COSATU yesterday made a last-ditch call for government to reconsider its decision not to translate into law the union/SaccoS agreement on changes to the Labour Relations Act.

It is understood the unions have written directly to President F W de Klerk setting out their motivation.

In a public statement, Cosatu said it was not too late for government to correct its "blunder" made at a Cabinet meeting last Wednesday.

"It would require an urgent meeting of the Cabinet and possibly, but not necessarily, a few additional days of Parliament. If it has the courage to take this route, widespread labour conflict might be avoided," Cosatu said.

The federation added the decision, if unchanged, would be a setback for the talks about a climate conducive to negotiation.

It would also confirm the argument for the maintenance of international economic pressure on SA "until the regime practices what it is currently preaching", and would force the unions to consider severing dealings with the authorities.

Cosatu said the statement by Manpower Minister Ellouw last Wednesday explaining the decision was misleading in two respects.

Firstly, it "studiously fails to mention what was recommended to the Minister by his own National Manpower Commission (NMC) or to offer reasons why he and the Cabinet rejected the NMC recommendations.

"Secondly it suggests that Cosatu, Nactu and SaccoS adopted an inflexible approach in regard to legislating their agreement."

Cosatu argued it had told Louw at their meeting a week ago that while it obviously wished the full agreement to be legislated and renewed its proposal, it was his responsibility to decide how to approach matters.

"However, by choosing not to give legislative effect to any provisions of the agreement, even the recommendations of the NMC, the Cabinet has made a serious blunder," Cosatu said.

ALAN FINNE
Cosatu appeals directly to FW

Political Staff and Staff Reporters
Cosatu representatives last night telephoned President de Klerk, asking him to intervene in a dispute between the labour movement and the Government.
Trade unions are threatening a wave of pickets, boycotts and stayaways if the Cabinet does not extend the sitting of Parliament today to amend the Labour Relations Act.
A Tsyunhuys spokesman confirmed today that Cosatu telephoned Mr de Klerk at home.
"Mr de Klerk took note of their views," he said, but said he would not discuss the matter on the telephone.
"He did not give them undertaking or assurances and, in regard to their requests to have a meeting with him, said Cosatu would be contacted today," he said.

On claims by Cosatu general secretary Jap Naidoo that the President had said he would take the matter to the weekly Cabinet meeting today, the spokesman said Mr de Klerk would never disclose details of the Cabinet agenda.
The Government has said it cannot introduce legislation this year to implement the accord which Cosatu and the other trade union federation, the National Council of Trade Unions (Nactu), signed this year with the employer body, the SA Consultative Committee on Labour Affairs (Saccola).

Call for better deal for nature conservationists

Pretoria Correspondent
The Public Servants' Association (PSA) has called for a massive salary injection for nature conservationists.
This includes a 40 percent pensionable salary increase for nature conservation officers, as well as the implementation — backdated to 1991 — of a new dispensation for research technicians.
A report in The Public Servant magazine describes the 465 nature conservation officers, research technicians and conservation scientists as a "crisis group.

Gross starting salaries for learner conservation officers with the TPA were R642 a month and those for qualified nature conservation officers R1 139, while the average salary of the 343 nature conservation officers employed by the State and Cape and Transvaal provincial departments was R1 610 a month.
This, the article said, was R409 a month less than that of any similarly qualified personnel in the public service.
The TPA responded by saying it had consistently given support for better salaries.

The trade unions are hinting that the ANC could pull out of talks with the Government if their request is not complied with.
Parliament is due to go into recess on Friday.
Last night, top Cosatu officials started an indefinite sit-in at the Department of Manpower's offices in Johannesburg, demanding the amendments be brought before Parliament.
Among those who started the sit-in were Mr Naidoo and National Union of Mineworkers general secretary Cyril Ramaphosa.

Offers
Cosatu negotiator Marcel Golding said yesterday if the Cabinet did not extend Parliament for a few days for the amendments to be passed, the country faced a deluge of protests.
Yesterday, Manpower Minister Eh Louw said he could not entertain short-notice amendments to the Labour Relations Act.
Sapa reports that Mr Louw said in Cape Town he had offered to introduce most of the signatories' proposals and the accompanying recommendations of the National Manpower Commission in the current session of Parliament and leave those remaining for 1991.
As an interim measure, he had offered to introduce legislation immediately giving the accord legal recognition, confining its application to the signatories. This had been rejected.
LRA row may threaten talks

COSATU yesterday threatened to ask the ANC to abandon its negotiations with government and to call for a national stayaway unless President F W de Klerk agreed to a meeting to change the Cabinet decision to delay any amendment to the Labour Relations Act (LRA).

And NUM general secretary Cyril Ramaphosa told a media conference in Johannesburg yesterday that mining industry wage talks, at a "crucial" stage, could be suspended unless the Chamber of Mines agreed to support suggested amendments to the Act.

The Cabinet apparently decided not to implement the joint employer/worker suggested amendments because of objections received from some interest groups and because of a claimed shortage of time. COSATU general secretary Jay Naidoo told the news conference.

ANC internal spokesman Ahmed Kathrada said last night he did not know if the ANC had taken a formal decision on the issue, but any representations from COSATU would receive serious consideration.

Naidoo said there could be no national political settlement without the endorsement of the trade union movement.

Naidoo said factory demonstrations and mass stayaways of "proportions not witnessed before" would be called.

In addition, COSATU would end its contact with the Manpower Department and the National Manpower Commission, while SACCODA would be urged to follow suit.

Meanwhile about 20 officials from COSATU and affiliated unions began an indefinite sit-in at Manpower Department offices in Johannesburg yesterday.

Naidoo said government's decision

LRA raised questions about its commitment to democratic reform

Ramaphosa said the NUM was concerned about objections he said Goldfields had made to the proposed amendments and would ask the Chamber of Mines today what its position was on the issue.

It was in the country's interests that the parliamentary session be extended to enable the proposals to be passed into law.

Chamber of Mines external affairs senor GM Johan Liebenberg said yesterday that the chamber and its members had unanimously supported the agreement between SACCODA, COSATU and NACTU.

Naidoo said the agreement on LRA amendments had been endorsed by 65 000 employers and 4 million workers of whom 1.5 million were paid-up union members.

MIKE ROBERTSON reports from Cape Town that Manpower Minister Fru Louw yesterday appeared to rule out any possibility of amending the LRA this year, at a hastily convened press conference.

The Minister said COSATU had written to De Klerk asking for an urgent meeting and he had indicated he was prepared to meet them this week.

However, COSATU had replied that it would only be interested in meeting if the LRA was amended this parliamentary session which ends on Friday.

From Page 1
FW rejects Cosatu demands on LRA

PRESIDENT FW de Klerk has agreed to meet the Congress of South African Trade Unions to try to diffuse a looming showdown over labour legislation.

But De Klerk said last night he was not prepared to give in to Cosatu's demand for the Labour Relations Act to be amended during this session of Parliament.

However, he was prepared to have a Bill introduced to the Parliamentary Manpower Committee to be finalised before the next session.

Cosatu has threatened drastic measures, including mass industrial action and a request to the ANC to call off negotiations, if the Government did not legislate its recent labour accord with employer organisation South African Co-ordination Council of Labour.

After discussing the looming crisis with the Cabinet yesterday, De Klerk last night issued a letter which he had just faxed to Cosatu general secretary Mr Jay Naidoo.

He agreed to Naidoo's request for a meeting with him and said he was prepared to meet him and other parties to the labour accord at 10am on June 26 in his office at the Union Buildings in Pretoria.

De Klerk said he had asked Manpower Minister Mr Eli Louw to attend.

He said that further deliberations and discussions on the accord would be in the best interest of both workers and employers before legislation was finalised.

Complex

The parliamentary process did not allow for complex legislation of this sort to be finalised in a relatively short period of time.

It would therefore not be possible to pass legislation during this session of Parliament.

He said that after further negotiations, it would be possible to introduce a Bill to Parliament's joint manpower committee so legislation could be finalised before the start of the next session of Parliament.
FW, unions to talk on labour act

Political Correspondent

PRESIDENT F W de Klerk last night agreed to a meeting with black trade union federations in a bid to defuse the potentially damaging conflict between the government and labour over the proposed changes to the Labour Relations Act.

However, Mr De Klerk stressed it would not be possible to meet Cosatu's demand that legislation reforming the contentious law be passed during this session of Parliament.

In a letter, released after yesterday's lengthy cabinet meeting to Cosatu's general-secretary Mr Jay Naidoo, Mr De Klerk said he was prepared to meet with both unions and employers on June 28 to discuss the Samwu-Cosatu-Nactu accord.

The proposed meeting will also be attended by the Minister of Manpower, Mr Elu Louw, who has been at the centre of the storm.

Responding to a threatened nationwide stayaway on July 2 by both the ANC and Cosatu, Mr De Klerk said it was clear that further deliberations and discussions would be "in the best interests of both workers and employers, before legislation is concluded".

However, Mr De Klerk added that the parliamentary process did not allow for complex legislation of this nature to be finalised in a relatively short time.

"It will therefore not be possible to pass legislation in this regard during this session of Parliament."

But Mr De Klerk proposed as a compromise that it would be possible to introduce, after negotiations, a bill this year to the joint committee of Parliament.

"This would provide ample time for the multi-party committee to finalise legislation before the start of the next session of Parliament which is slated to begin in February."

The compromise proposal came against sharply conflicting statements yesterday from the Conservative Party and the Democratic Party on how the impasse should be resolved.

The CP said that if Mr De Klerk or any member of his cabinet made any concessions to Cosatu's demands they would undoubtedly be guiltless victims of "criminal blackmail."

But the DP said that the proposed amendments to the Labour Relations Act should be brought before Parliament "with all deliberate speed."

The DP's deputy manpower spokesman, Mr Tony Leon, called for a further session of Parliament this year to ensure the enactment of the measures.
Quick LRA transition to law 'still possible'

In 1987 and 1988 Cosatu and Nactu, the two largest trade union federations, began waging national and international campaigns against the then-draft Labour Relations Amendment (LRA) Bill.

Saccola vigorously opposed these campaigns, and instead challenged the union federations to enter discussions with it about the Bill.

These discussions began in March 1988. By August the three organisations had identified six problematic clauses in the draft Bill, and signed a joint letter to the Director-General of Manpower asking for a delay in the promulgation of these clauses, to enable employers and union federations to define solutions.

The Bill was nevertheless enacted in September 1988.

Timetable

Talks between the employers and union federations continued until May 7 1990, when the three bodies signed an agreement setting out detailed interim changes to the Labour Relations Act, dealing mainly with the clauses identified in 1988.

This agreement was intensively debated within the ranks of Saccola's 10 member organisations and unanimously endorsed.

At subsequent meetings in May between the parties to the agreement and the Director-General and Minister of Manpower, a timetable was agreed on in terms of which:

- The agreement was published in a special Government Gazette in draft Bill form, and parties were invited to comment within a period of 14 days.
- The National Manpower Commission (NMC), the government's standing advisory body on labour affairs, was asked to urgently examine the agreement and, in the light of the comments received, recommend further action.
- The NMC did this, and although this report has not been made public, the Minister has informed the parties that the NMC — after considering the comments of interested parties — has recommended that one clause be omitted, one rewritten, two held over for further consideration, and that the balance of the agreement be translated into legislation.
- At a meeting with the Minister on June 12 — almost two weeks before Parliament was due to recess — Saccola, Cosatu and Nactu urged the Minister to proceed with at least those parts of the agreement that had been endorsed by the NMC.
- This view has been confirmed both privately and publicly on a number of subsequent occasions.

Against this background, Saccola is frustrated that it has not been possible to at least begin the process of converting the NMC-endorsed proposals into law.

Labour law sets out the rules by which the parties to an industrial dispute should deal with each other. Those elements of the Saccola/Cosatu/Nactu accord which have been endorsed by the NMC now have the broadest possible employer and union support.

The legislation of these proposals will serve the interests of industrial peace, and thereby the national interest.

Against this position, Saccola welcomes the proposed meeting between Cosatu, Nactu, itself, and the President.

It hopes this meeting will lead to a programme of action which will enable the Manpower and Education Joint Committee of Parliament to agree on a Bill by no later than September this year.

This is a time for all parties to act in a way that will promote industrial peace.

It is still possible to convert the proposed changes to the Labour Relations Act into law expeditiously.

All parties should carefully consider whether their words and their actions positively contribute to this end.
Cosatu invited to talks with govt

FW rules out rapid change to labour Act

CAPE TOWN — President FW de Klerk yesterday invited Cosatu to meet him next week to discuss proposed changes to the Labour Relations Act (LRA), but emphasised that it would not be possible to pass legislation in this regard during this session of Parliament.

Cosatu has threatened a series of disruptive labour actions, including boycotts, demonstrations, strikes and stayaways should government fail to amend the Act this year along lines proposed in an agreement between itself, Nactu and employer federation Saccola.

Before De Klerk's statement, Saccola negotiator Bobby Godsell expressed the hope that the President would intervene positively on the issue.

In a letter to Cosatu general secretary Jay Naidoo, which he made public last night, De Klerk said he was prepared to meet Cosatu at the Union Buildings on June 26 to discuss the agreement.

He had asked Manpower Minister EJ Louw to be present at the meeting.

In the letter De Klerk said "in view of representations made to me directly from various interested parties, it is clear that further deliberations and discussions would be in the best interest of both workers and employers, before legislation is concluded.

He emphasised that "the Parliamentary process does not allow for complex legislation of this nature to be finalised in a relatively short period of time. If a situation therefore not be possible to pass legislation in this regard during this session of Parliament.

What would be possible would be to introduce timeously, after negotiations, a Bill to the Joint Committee in order to provide ample time for this committee to finalise legislation before the start of the next session of Parliament," he said.

Naidoo could not be contacted last night and Godsell declined to comment further until a Saccola meeting this morning.

But Godsell, in calling earlier for positive intervention from De Klerk, said this was necessary "given all that is at stake, not only for labour relations but also for demonstrating what can be produced by discussion and compromise.

Meanwhile 27 senior Cosatu leaders vacated the Johannesburg Manpower Department offices after a 24-hour sit-in, saying their action had achieved its goal.

At a media conference at the offices prior to the departure, Naidoo indicated Cosatu would be willing to have just those aspects supported by the National Manpower Commission made law rather than the entire agreement. The NMC proposed delays in, for example, changing the structure of the Labour Appeal Court but supported most of the other proposals.

NUM general secretary Cyril Ramaphosa said Cosatu regretted that employ-

LRA

ers which, through Saccola, had supported the changes would suffer when industrial action occurred. "Saccola negotiated in good faith. But it is unfortunately our only weapon. It is the state which will have to bear the blame."

Naidoo warned, though, that companies identified as having opposed legislation would receive "special" treatment, including consumer boycotts where feasible.

It also emerged yesterday, however, that three of the key companies whose objections were cited by Manpower Minister EJ Louw as reasons for delaying passage of a Bill had either withdrawn their objections or stated their representation should not delay the process.

Naidoo and employer sources said Gold Fields had withdrawn its objections. The company could not be reached for comment.

And Eskom and law firm Denys Reitse said their submissions had been of a technical or constructive nature and were not designed to delay the process.

Sasol and BTR Dunlop are two firms which have not withdrawn their objections. Naidoo said Cosatu had not, as reported yesterday, called on the ANC to abandon the negotiating process because of the LRA dispute. Rather, it had called for the ANC to "review" its position which would not mean abandoning talks with government.

Naidoo said Cosatu had already briefed the ANC on plans and would be sending a top-level delegation to the ANC National Executive Committee meeting scheduled to end tomorrow.

From Page 1

To Page 2
Saccola backs meeting with FW

By Shared Singh

The SA Co-ordinating Council of Labour (Saccola) expressed frustration yesterday that the agreement on the Labour Relations Act was not legislated but it welcomed a meeting with State President FW de Klerk and the unions.

The agreement between Cosatu/Nactu and Saccola on amendment to the Labour Relations Act (LRA) was gazetted in a draft bill form and parties were invited to comment within 14 days.

The National Manpower Commission (NMC), after considering comments by interested parties, recommended a few changes and supported the enactment of the balance of the agreement. But the Cabinet on Tuesday decided not to legislate.

Saccola said those elements of the Cosatu/Nactu/Saccola agreement which were endorsed by the NMC had the broadest possible union and employer support.

Cosatu had not made a decision by yesterday on whether the federation would meet President de Klerk.
Cosatu warns on Labour Act delay

By DON HOLLIDAY, Staff Reporter

THE Congress of South African Trade Unions (Cosatu) will call on the ANC to review its role in negotiations if the government does not introduce legislation to amend the Labour Relations Act in the present session of parliament.

This was announced by Cosatu spokesman Ms Lucy Nyembe at a Press conference in Cape Town this week.

The conference was attended by representatives of Cosatu, the National Council of Trade Unions, the Pan Africanist Congress, the ANC and other labour organisations.

Ms Nyembe said it had become clear to Cosatu that the "season of conflict" with the government was not yet over.

"SERIOUS ERROR"

Talk about a "new South Africa" meant little if the commitment of the government was not seen.

The Cabinet's decision not to introduce the Labour Relations Act amendment legislation in this session of parliament was a serious error of judgment. The consequences for the economy were grave.

Other moves which would be considered by Cosatu if the amendments were not introduced were calls for mass stayaways, boycotts and encouragement of mass demonstrations and pickets.

Asked why the ANC and PAC were sharing the same platform, she said there was a long-standing agreement to work together at improving conditions for workers.
Labour bill: Call for go-ahead

Own Correspondent

JOHANNESBURG — Weekend statements from Sasol and BTR Dunlop mean that every major company whose “objections” to proposed amendments to labour law were cited by Minister of Manpower Els Louw as reasons for delaying the introduction of legislation, has now called for the process to go ahead.

This emerged as Cosatu announced it had decided on Friday to accept the invitation from President F W de Klerk to meet him, along with Nactu, Saccola and the Manpower Department to discuss the matter.

Mr Louw told the three parties to the Labour Relations Act accord (Cosatu, Nactu and Saccola — CNS) two weeks ago that comments received by the National Manpower Commission (NMC) indicated the time to study the proposals was too short.

He cited Sasol, BTR Dunlop, Eskom, Gold Fields, law firm Deneys Reitz and Unisa as having made such submissions.

Manpower director general Mr Joel Fourie yesterday repeated the department's defence of delaying the introduction of legislation, and added hundreds more objections had been received after the official May 23 closing date for submissions to the NMC.

BTR group industrial relations manager Mr Glen Sutton said that following consultations with the Natal Chamber of Industries “it appears that our concerns on the interpretation of the CNS agreement have been allayed by certain assurances given to the chamber by the chairman of Saccola, and on this basis our submissions of June 5 become inappropriate.”

Sasol noted a letter from managing director Mr Paul Kruger to Saccola’s Mr Bobby Godsell last week in which he thanked Mr Godsell for “bringing to our attention” that the NMC recommendations did not propose immediate passage of two clauses of the agreement and draft Bill which were Sasol’s main concern.

Meanwhile, NMC acting chairman Mr Frans Barker announced public hearings this week from June 28 to 29, in its broader investigation into consolidating the Act.
Act sparks strong reaction on labour front

THE intense activity on the labour front at the moment underlines the problems posed by the present Labour Relations Act, Congress of SA Trade Unions spokesman Neil Coleman says.

OK Bazaars is entering its fourth week of confrontation with SA Commercial Catering and Allied Workers Union members, and with thousands of workers on strike around the country. Sacawu is also involved in disputes with Edgars and Checkers.

Municipal workers have downed tools at Sandton in Johannesburg, Vredefort near Pretoria, and have all but crippled Cape Town's refuse removal system.

Industrial action is also taking place in at least four other companies, including Satchwell Controls, Grappnel Silencers, Southern Sun and on at least three oil rigs off the South African coast.

Thousands of unionists from the wine and spirits industry will cast their ballot on Friday for a nationwide strike.

Mr Coleman emphasised that disputes arose from immediate grievances. "But the problems of the LRA feed into the situation. When faced with a potential dispute, there is no set framework ... Both Saccola (the SA Consultative Conference on Labour Affairs) and ourselves (Cosatu and the National Council of Trade Unions) have recognised this."

Cosatu is due to reply on Friday night to a proposal by State President FW de Klerk that he and Manpower Minister Eli Louw meet the unions on Tuesday to discuss the Saccola accord amendments to the present LRA.

The unions have promised industrial action "of unprecedented proportions" if the amendments are not pushed through Parliament by the end of this session. - Sapa
Tomorrow's meeting between FW and Cosatu may avert labour crisis

STAFF REPORTERS
President de Klerk is due to meet representatives of Cosatu, the country's largest labour federation, in Pretoria tomorrow to try to diffuse a looming showdown over labour legislation.

After two years of negotiations, between the bosses, the South African Employers’ Consultative Committee (Sacca) on one hand, and the workers, the Congress of South African Trade Unions (Cosatu) and the National Council of Trade Unions (Nactu), Cosatu protested over a delay in the immediate implementation of the agreement in the Labour Relations Act.

Minister of Manpower, Ebi Louw, said more time was needed for consultation over the agreement. The unions were not willing to accept this and contacted President de Klerk. This led to his agreeing to meet union representatives.

The Draft Labour Relations Amendment Bill comprises seven pages of interim amendments to the Labour Relations Act passed in 1956 and changed or enlarged scores of times since.

The major changes proposed relate to definitions of two aspects of unfair labour practice, namely:

- Defining the freedom of workers to strike and the right of employers to lockout.
- Broadening the definition of unfair dismissals.

On the first point, the proposed legislation takes this aspect of organised labour relations back to the 1981 position in that employers cannot ask the Industrial Court to order a strike to stop on the grounds that it is unfair.

In the past, employers could claim that a strike was unfair because of its financial effects on the firm, or because the demands were perceived as unreasonable.

Under the interim amendments, if the correct labour procedures such as declaring a dispute, consultation and attempts at conciliation have been followed, there is no recourse to the Industrial Court to have the strike stopped.

Employers may still seek an interdict to have an illegal strike stopped — such as a wildcat strike before or while the union is involved in negotiation, or a sudden downing of tools by workers without attempting to resolve the issue through negotiation.

Major problems
In this case, the employer must give the workers 48 hours notice that it intends to seek an interdict.

This time lag would present major problems for certain industries — for example, the huge costs and potential damage to equipment should a steel foundry’s furnaces have to shut down for two days.

The proposed legislation thus includes a provision that, where the application is served in less than 48 hours, the other party is given written notice "at the earliest opportunity" and given a reasonable chance to be heard.

The flip side of this provision likewise protects a lockout by the employer from interdict without the union giving the employer similar notice.

On the second point, guidelines for unfair dismissals laid down by the International Labour Organisation have been introduced.

Workers may be fairly dismissed with reference to their performance or conduct — or with reference to the operational needs of the firm involved after consultation with the union and after proper procedures have been followed.

Further provisions simplify and clarify the processes for declaring a dispute, broaden the Act to include, in effect, oil rig workers, clarify certain powers of the Industrial Court, and provide for two assessors chosen by union and employer bodies to sit in Labour Appeal Court hearings.

The wider application given the Act also allows registered unions to have a mixed State and private sector membership.

Once amended, the Act will no longer recognise race as an industrial interest. Unions will not be able to object to the registration of new unions or extension of registration of existing unions on racial grounds.
Employers retract labour law queries

25/6/90

BRIAN STRONNER

WEEKEND statements from Sasol and BTR Dunlop mean that every major company whose "objections" to proposed amendments to labour law were cited by Manpower Minister Eli Lowy as reasons for delaying the introduction of legislation, has now called for the process to go ahead.

This emerged as Cosatu announced it had decided on Friday to accept President F W de Klerk’s invitation to meet him, along with Nactu, employer federation Sacola and the Manpower Department to discuss the matter.

The meeting, set down for tomorrow, appears to be the last chance to avert labour disruptions planned by the unions to protest at delays in processing legislation.

Lowy told the three parties to the Labour Relations Act accord (Cosatu, Nactu and Sacola — CNS) two weeks ago that comments received by the National Manpower Commission (NMC) indicated the time to study the proposals was too short.

He cited Sasol, BTR Dunlop, Eskom, Gold Fields, law firm Denays Reitz and Unisa as having made such submissions.

Manpower director general Joel Fourie yesterday repeated the department’s defence of delaying the introduction of legislation and said hundreds more objections had been received after the official May 23 closing date for submissions to the NMC.

ALAN FINNE

BTR spokesman Glen Sutton said following consultations with the Natal Chamber of Industries ‘it appears our concerns on the interpretation of the CNS agreement have been allayed by certain assurances given to the chamber by the Saccocha chairman, and on this basis our submissions of June 5 become inappropriate’.

Sasol showed up this week a letter from MD Paul Kruger to Sacola’s Bobby Godsell last week in which he thanked Godsell for ‘bringing to our attention that the NMC recommendations did not propose an immediate passage of two clauses of the agreement and draft Bill which were Sasol’s main concern.

‘Although we still have concerns regarding other aspects of the Bill we do not want to delay unnecessarily the legislative process. We are prepared to address these concerns before the Standing Committee as was suggested by you.”

Earlier Eskom spokesman George Linaque said he had explained to Godsell and Fourie that Eskom’s comments had been “largely of a technical nature, drawing attention to obvious ambiguities and errors in the draft Bill.”

I made it clear the process need not be

From Page 1

LRA 25/6/90

delayed in order to correct the draft Bill accordingly. Eskom has not withdrawn its representations but we are making every effort not to delay the process unduly,”

A Denays Reitz spokesman said the firm did not object to the proposed amendments. The firm’s representations “were constructive and drew attention to practical difficulties in the draft Bill. Our representations were not intended to be used as a basis to delay the passage of the Bill or to avoid the promulgation of any amendment. This will be conveyed to the Minister of Manpower immediately.”

Sapa reported Unisa denied it had objected to the accord’s Principal Prof J van Vuuren but statements on the accord had, however, been made by “an eminent scholar” in the field of labour relations who was attached to the university. These statements had been made in the academic’s personal capacity Gold Fields declined to comment on reports that it, too, had withdrawn any objections it may have had to the draft Bill being given legislative effect.

However, both union and employer sources confirmed this had occurred.

Fourie said most of the 80 submissions received by the NMC had suggested changes to the proposals even if not all had asked for a delay. He added the Department had received 500 more objections since May 23.

“But the point is not to count heads. There are people who have problems with the CNS accord. Let’s give them an opportunity,” he said.

He said it was clear from the wording of their letters and statements that some of the originally cited firms — including Eskom and Sasol — still had problems with the proposals.

In an unprecedented move, NMC acting chairman Frans Barkers announced public hearings this week from June 26 to 29, in its broader investigation into consolidating the Act.
PRETORIA — Seething labour discontent over delays in enacting a landmark industrial relations agreement between the country's major employer grouping and black trade union federations was temporarily eased following a historic meeting here yesterday.

The four-hour meeting between President F W de Klerk and the labour representatives ended with an interim arrangement aimed at resolving the continuing crisis over the Labour Relations Amendment Act.

A tripartite working party will be formed within 14 days to examine ways of resolving the impasse over the law, but trade union representatives warned of continued pressure backing their demand for speedy enactment of a new labour accord.

Mr De Klerk, Manpower Minister Mr Eta Louw, representatives of the South African Consultative Committee on Labour Affairs (Sacola) and office-bearers from Cosatu and the National Council of Trade Unions (Nactu) met in the Union Buildings to seek a solution to the crisis.

The parties emerged confident that the working group would pave the way for mutually acceptable labour legislation.

And a statement by the State President's Office hinted that the desired labour law could be finalised early during the 1991 parliamentary session.

The accord in question was drafted over a two-year period — characterised by protracted industrial unrest — by the Sacola/Cosatu/Nactu grouping and is held as an alternative to the contentious Labour Relations Amendment Act.

The agreement reached at yesterday's meeting proposed that a joint working party should meet within 14 days and report progress within a further 30 days.

The "constructive nature" of yesterday's meeting was praised by Anglo American Corporation.

Cosatu and Nactu spokesmen warned, however, that the federations would continue exercising organised labour action until the accord had been written into law.

— Sapa
Mass union protest hangs in balance

President de Klerk moved yesterday to allay mounting union anger over delays in amending labour legislation.

However, unions must still decide whether planned massive industrial protest action will be postponed.

There were no formal statements at the end of the four-hour discussions yesterday between the Government, Cosatu, the country's largest trade union federation, the National Council of Trade Unions (Nactu) and the SA Consultative Committee on Labour Affairs (Saccola).

Cosatu has already declared it is "disturbed" that the meeting did not produce the results it expected and has indicated it will discuss industrial action in the light.

Protest action is likely to be suspended for at least three weeks, however, while Cosatu and Nactu discuss their proposed plan of action including stayaways, demonstrations and sit-ins.

Amendments

A joint position will be finalised at Cosatu's central executive committee meeting on July 20.

Last week, Cosatu wanted proposed amendments to the Labour Relations Act to become law before the end of the parliamentary session last Friday, while Mr de Klerk said he would not be prepared to give in to the demand.

Cosatu general secretary Jay Naidoo said last night that workers were being hit daily with mass dismissals and interdicts under the Labour Relations Act. Workers could not wait much longer.

Saccola spokesman Bobby Godsell was positive about the outcome of the meeting.

He said the proposal to set up a joint working committee to try to restore mutual confidence and the passing of the legislation was "most constructive".

Nactu secretary-general Cunningham Ngcukana said the organisation welcomed the establishment of a working party but was disappointed at the failure of the Government to give expression to labour accord.

See Page 14
Union disrupts hearing on labour Act

DANIEL FELDMAN

THE National Manpower Commission's (NMC) verbal hearings on the consolidation of the Labour Relations Act was disrupted by about 75 chanting and toyoting Nactu demonstrators yesterday before being suspended.

The union members arrived at the Building Industries Federation SA (Bifsasa) headquarters, the location of the commission's inquiry, and demanded an end to the hearings until the Saccola/Cosatu/Nactu labour relations accord was "translated into legislation", Nactu spokesman Warton Nhadull said.

He said Nactu was opposed to the hearings because "the commission had written recommendations to the Manpower Minister on the proposed accord without reference to the parties involved and without showing the recommendations to the involved parties."

Outcome

"The NMC and the Manpower Department want to undermine the process that Nactu, Cosatu and Saccola have thus far engaged in," said Nhadull.

In response, NMC acting chairman Franz Barker said: "The NMC had taken note of Nactu's reasons for objecting to the hearings," but the consolidation investigation should be seen as "completely separate from the accord and not as an alternative to the accord."

We are hopeful that the outcome of the discussions on the accord between the Sizie, President and Sa-
colla, Cosatu and Nactu will enable the commission to resume its hearings."

Before the disruption, the Federation of Salaried Staff Associations of SA had presented evidence and Bifsasa was midway through presenting its testimony. Testimony from the American Chamber of Commerce was cancelled.

Barker said today's scheduled hearings would be postponed.
Committee to examine labour law dispute

THE extent of industrial unrest over the Labour Relations Act dispute would be determined by progress made in a working committee to be established after yesterday's tripartite meeting hosted by President F W de Klerk in Pretoria, union sources said.

Eighteen representatives of Cosatu, Nactu and Saccola (CNS) — the parties to the accord on suggested amendments to the Act — attended together with Manpower Minister Eli Louw and his director-general Joel Fourie.

The working committee — to be established in terms of a proposal at yesterday's meeting — would be mandated to discuss ways of "restoring mutual confidence" after government's failure to translate the accord into law this year.

A statement from De Klerk's office described the discussions as cordial and said the President had agreed to a follow-up meeting later in the year. It said the legislation under discussion would be "expedited as far as possible within the framework of parliamentary procedures, the goal being to finalise the legislation early during the 1991 session of Parliament."

De Klerk announced that Louw had agreed to extend the time for comments on the proposed legislation to July 31.

The working committee proposal was made after De Klerk turned down labour's main proposal — that Parliament be reconvened later this year for the purpose of dealing with the amendments. Parties to the accord still have to decide whether they will sit on the committee.

However, should all parties agree, the committee will meet within 14 days and report on progress after another 30 days.

The National Manpower Commission and the Manpower Department will also take part, while the Commission for Administration will be invited.

Cosatu delegation member Geoff Schreiner said the CNS parties had impressed on De Klerk that a serious credibility crisis had arisen because of Louw's handling of the matter, and it was here that lost confidence had to be restored.

Cosatu and Nactu said they were discussing a programme of protest action, and this would continue "in the light of (yesterday's) meeting and progress made towards a satisfactory settlement in getting the CNS accord into law."

Saccola described the meeting as "constructive" and one employer source said there appeared no reason that satisfactory legislation could not be finalised by September for passage through the parliamentary standing committee.
Meeting to break impasse over LRA

By DREW FORREST

The ground-breaking first meeting of the "joint working party," proposed at the recent talks between President FW de Klerk, employers and unions as a means of breaking the impasse over the Labour Relations Act, is to take place next Wednesday.

Manpower Director General Joel Fourie confirmed that Manpower Department representatives would attend the meeting at the department's Pretoria headquarters.

Saccola and a Cosatu team, including general secretary Jay Nadoo, will also attend, but the other union player, the National Council of Trade Unions (Nactu), has yet to decide its response.

This week Nactu's acting general secretary, Cunningham Ngokana, said his personal view was that the working party proposal was a "delaying tactic" by the state aimed at outflanking the Saccola process.

"It will enable the National Manpower Committee (NMC) to conclude its inquiry into the whole LRA, while Saccola and the unions are concerned with interim changes," he said.

The Nactu national executive would decide its stance at the weekend.

Cosatu's Geoff Schreiner said the federation would push in the working party for the recall of parliament later this year to enact the Saccola proposals.

Failing this, the federation would demand broader changes, including the immediate extension of the Act to the public sector. Proposals on the position of domestic and farmworkers would also be made.

Cosatu has also asked for the NMC, the Commission for Administration and the SA Agricultural Union to be represented in the forum, and director general Fourie said this would be discussed at the meeting next week.

He stressed that at the talks with Saccola and the unions, De Klerk had made it clear that there was no prospect of another parliamentary session this year.
A help in forging a new society

The labour relations processes employed in a changing workplace can be of help in forging a new society, according to Anglo American's industrial relations head Bobby Godsell. Report by CLAIRE ROBERTSON of The Star's Pretoria Bureau.

The "lines of conflict" in South Africa were no longer only racial but drawn between urban insiders and rural or peri-urban outsiders, between the unionised and the unemployed, Bobby Godsell, head of Anglo American Corporation's industrial relations department, told a seminar on mediating a new South Africa which was held at Unisa last week.

"Against the background of change and of new forms of cleavage, what contribution can the processes of labour relations make?"

"I would argue that labour relations has been an area where new realities and new power relations have first emerged."

The impact of labour relations was and would be felt on the lives of ordinary men and women both in the workplace, where black and white workers encounter each other "and have to grapple with new power realities", and up to the highest levels.

Four areas or levels in which labour relations processes were mediating the emergence of a new South Africa were the workstation, the company, the industry and on a national level.

In the workstation itself, from the mine stop to the office, fundamental challenges being experienced as feudal authority patterns were challenged.

Challenged

"In times past, the role of the boss and the role of the boss were confused. A supervisory authority was built on a foundation of perceived racial superiority of power."

He said this perception was now being challenged and perhaps the most dramatic evidence of this was the regularity with which unfair dismissals were now challenged.

"It has become extremely difficult in South Africa to fire anybody," he said, only to be reminded by the following speaker, assistant general secretary of the National Union of Mineworkers, Marcel Golding, that Mr Godsell's employer had nonetheless managed to fire 50,000 people recently, in a reference to mine retrenchments.

Disciplinary codes and procedures, the notion that one could not discipline someone without a valid reason, and the accompanying disciplinary hearings, had created "a little microcosm of both status equality and just process in the absolute engine house of our economy", said Mr Godsell.

"This is on one the hand very difficult and on the other extremely exciting."

Labour relations practices were leading to increasing disclosure of the financial records of companies, thereby giving people access to economic reality.

"In the decades that lie ahead South Africa is going to grow in its economy and compete effectively in world markets."

"We are going to have to produce more with less; more output with less capital, and thus can only effectively come about through a kind of partnership agreement between the workforce and trade unions on one hand and management on the other."

Mr Godsell said that South Africa had inherited a tradition of centralised collective bargaining.

"We will see an expansion of the collective bargaining agenda into the areas of housing, education and health care for the workers."

At the national level, negotiations between organised labour and employer bodies about the Labour Relations Act were a form of "national collective bargaining."

"Increasingly, we will see labour legislation made in this way. I think we will see the transformation of what is now the National Manpower Commission into a kind of parliament of management and organised labour," Mr Godsell said.
We have facts on killings - top cop probe hit squads

POLICE had information that alleged Civil Co-operation Bureau members Mr Ferdie Barnard and Mr Calla Botha were involved in the assassinations of Swapo executive member Mr Anton Lubowski and Dr David Webster, the Harms Commission heard yesterday.

This was said by Col Flora Mostert, officer investigating the death of Wits academic Dr David Webster.

Mostert said he had information that the CCB was involved in both killings and that Botha and Barnard were implicated.

He told the commission’s sole member and chairman Mr Justice Louis Harms that so far the information - and not evidence - had implicated the men in the deaths but had not said they were the murderers.

In a statement made on April 5 this year, Mostert said an anonymous caller had told police on June 9 and August 29 last year that the people who killed Botha on May 1 last year had links to “one or other department of the Special Forces section of the SA Defence Force”.

Another call was received early in September from Cape Town saying the person who killed Lubowski was the same person who had murdered Webster.

Editor

By Sowetan Correspondent

The name of Sowetan Editor Aggrey Klaaste appeared in a CCB file that was confiscated by officials of the Harms Commission.

Klaaste’s name was underlined along with the names of UDF official Mr Andrew Borame, sociologists Mr Walmot James and Dr Neville Alexander and Professor Herman Gollheime.

The file, marked “Region 6 and 9”, contained the names and telephone numbers of all the officers of the Institute for a Democratic Alternative in South Africa, the Johannesburg-based Five Freedoms Forum and the End Conscription Campaign.

His name was linked to the Nation Building campaign.

Lieutenant-Colonel Johan Wright told the commission yesterday he had confiscated the file in the CCB’s offices at Special Forces Headquarters in Pretoria - Sapa.

Harms

For parents while the strike was on

The question of scab labour," a spokesman from the Hillbrow Hospital said. "But we will do so in a disciplined manner. We do not have to force people to join the struggle."

Spokesmen from the strike-hit hospitals said they had assembled "skeleton staff" to care for patients.

More people detained

The Human Rights Commission (HRC) yesterday reported a rise in detentions since the beginning of March, attributing the increase mainly to police cracking down on "political celebration" in the wake of the ANC deputy leader Mr Nelson Mandela’s release.

Another factor, an HRC spokesman said, was the campaign for the resignation of black councillors. (32)

The spokesman said 265 people were currently being held in South Africa under the emergency regulations of 1976. Nine were being detained in the Western Transvaal, 64 in the Northern Transvaal, 71 in the Orange Free State, 18 in Natal, eight in the Eastern Cape, live in the PWV area and one in the Western Cape.

Not sure

The man (35) who had extra-marital sexual relations with four women and is not sure which of them had infected him.

Doctors are unable to track her down and she may be infecting other people.

Last month Sowetan revealed that more than 100 Soweto residents were being treated for AIDS at Baragwanath.

Mr Kunene said on admission he exhibited symptoms of ulcer. He also had pains in the chest and control often especially after meals.

"Last I knew I was healthy and when I was diagnosed as a pneumoni, I became weak. I had swollen lymph glands on my neck and a chronic cough which are symptoms of the later stages of
Changes to Act discussed

Two major trade union organisations and the employer body Saccola met Manpower Minister Eli Louw in Cape Town yesterday to discuss the creation of legislation embodying an agreement on the controversial Labour Relations Amendment Act (LRA).

Congress of SA Trade Unions spokesman Marcel Golding said the Government had been told that nothing less than legislating the amendments to the LRA agreed to by Cosatu, the National Congress of Trade Unions and Saccola would be acceptable — Sapa
Domestic workers union (LUP) agree to meet

By BARRY STREEK
Political Staff

THE Labour Party and the South African Domestic Workers Union (Sadwu) yesterday agreed to hold joint meetings about the position of domestic workers.

The LP and Sadwu held a surprise meeting yesterday after the union had strongly criticised a Labour Party advertisement for stating that domestic workers were already entitled to unemployment insurance benefits.

In a joint statement, issued by Ms Maggie Witbooi of Sadwu and Mr Petrus Meyer, the MP for Vredendal, they said they met yesterday "to discuss the rights of domestic workers in particular".

They said the meeting arose from the LP advertisement and "possible confusion that could arise from it."

"Both sides accepted each other's bona fides. "The LP's only interest is to acquire the rights of domestic workers and not to form its own or opposition unions."

"We agree that we should get together in future to discuss progress with each other and to see how we can complement one another's struggles."

"The LP salutes the role that domestic workers have played in contributing to the building of the country's human, social welfare and economic wealth," the joint statement said.
Marais launches income tax Bill

THE Income Tax Bill, which considerably reduces individual tax, takes a further step towards separate taxation of husbands and wives and extends the site system to an income level of R10,000, was read for the first time in parliament.

Introducing the Bill yesterday, Deputy Minister of Finance Dr Org Marais said that, in terms of the proposals, married women became fully fledged taxpayers in their own right, and with the exception of investment income, which was too easy to manipulate, they were taxed on their own income.

"DUBIOUS PLEASURE"

Some married women, namely those earning more than R40,000 a year, or running their own businesses, would add from the 1991 tax year have the "dubious pleasure" of completing their own annual tax returns.

Two measures which should encourage savings were the increase in exemption on investment income from R1,000 to R2,000 and the exemption of dividend income in the hands of individuals and close corporations.

It was proposed as a first step in the simplification of the problem of distinguishing between capital and revenue, to introduce a new rule.

In essence this meant a person could make an election that profits made on quoted shares which were held for more than 10 years could not be taxable.

The recommendations of the Technical Committee of Mining Taxation were further implemented this year by bringing in the second phase of a lower tariff for gold mines and the further phasing out of the surcharge for other mines.

Other measures would encourage development of new mines.

Mr Marais said there was confusion over Paye deductions where services were performed by a close corporation or a labour broker.

There was serious concern that considerable Paye losses might be suffered.

Although the main problem had already been identified and provided for in the Bill, there was still much detail which needed to be resolved — Sapa.
FW offers to see Cosatu to avert labour law showdown

By Peter Fabricius and Shareen Singh

CAPE TOWN — President de Klerk has offered to meet the country's biggest labour federation, Cosatu, in Pretoria on Tuesday to try to defuse a looming showdown over labour legislation.

But his peace bid coincides with Cosatu's mounting of major protests at delays in amending the Labour Relations Act as proposed by employer and worker organisations.

Mr de Klerk made it clear last night he was not prepared to give in to Cosatu's demand for the Act to be amended this parliamentary session, which ends tomorrow.

Cosatu officials left the Johannesburg offices of the Department of Manpower yesterday after a 21-hour sit-in to prepare for massive industrial action.

Speaking at the Department of Manpower's office, Cosatu general secretary Jay Naidoo said unprecedented levels of industrial action could be expected, including stayaways, national strikes, sit-ins and protest marches.

More than 300 protesting workers toy-toyed outside Con- lyn House in President Street, Johannesburg.

See Page 10.
Gold backed above crucial $350 mark

Finance Staff

The threat of labour action by the National Union of Mineworkers to protest against the delay in implementing the Labour Relations Amendment Act pushed the gold price above the crucial $350 mark today.

Dealers in London yesterday said fears of supply disruptions in South Africa helped the metal to stage a late rally and close $2.25 higher at $350.

This trend continued in New York, where the metal rose to $330.05, and in the Far East this morning. In Hong Kong gold opened $2.05 up at $351.85.

Political uncertainties in the Soviet Union — hard-line communists have made it clear they will try to replace President Mikhail Gorbachev as leader of the Soviet Union — added to the uncertainty in the currency and metals markets.
FW to step into labour Bill row

By MICHAEL MORRIS
Political Correspondent

PRESIDENT De Klerk is set to step into the row over the controversial Labour Relations Act to try and prevent a damaging confrontation between the unions and the government.

Presidential aides were to be contacting Cosatu officials today to discuss their request to see Mr De Klerk.

It was also possible that the Cabinet, meeting routinely today, would discuss the rising tension between the unions and the Department of Manpower.

Mr De Klerk confirmed early today that Cosatu had telephoned him at home last night.

"NO UNDERTAKINGS"

In a statement, Mr De Klerk said he had taken note of their views, but, made it clear he was not prepared to enter into discussions on the telephone.

Mr De Klerk gave "no undertakings or assurances" to Cosatu.

However, he said Cosatu officials would be contacted today in connection with their request to meet him.

Last night's telephone call followed Cosatu's warning yesterday that it would launch a nine-part action programme - including a national mass stay-away - unless a meeting with the President went ahead.

Cosatu wants Mr De Klerk to find a way to introduce amendments this year to the Labour Relations Act.

Minister of Manpower Mr EJ Louw has argued that more time is needed to consider the legislation.

See page 4.
Mr Louw said he had explained that before the bill was drawn up the agreement would have to be referred to the NMC, an advisory body, to allow it time to consider the measure. Other interested parties would also have to be given a chance to comment.

The agreement was advertised on May 23 and more than 80 comments were received in the next two weeks from unions, small business and big business, with the “vast majority” calling for the agreement to be altered.

The chief criticism centred on the definition of an unfair labour practice and the labour appeal court.

Mr Louw said another meeting was arranged for June 12, where he had put forward two proposals — neither of which had been acceptable to the unions.

He was bound to consider the interest of all workers, including those not represented by the union federations and the unemployed before reaching a decision on a course of action.

Mr Louw acknowledged that Saccola represented over 60,000 employers of the 150,000 registered in SA with the Unemployment Insurance Fund, while Cosatu and Nactu represented about 1.5 of the 5.5 million registered with the UIF.

He said it would be wrong for the government to accept an agreement without giving all parties an opportunity to voice their opinions.

Mr Louw said last night that he wished to discuss the following three issues with the SCN:

1. The possible publication of the National Manpower Commission’s report on the accord for comment.
2. A comparison between international standards (for example International Labour Organization conventions), the accord and the NMC’s recommendations.

The programme to be followed for further consultation and submission of a draft amendment bill for consideration by the Joint Committee of Parliament.
SHOWDOWN

by Anthony Johnson

The issue was not resolved soon, as the National Union of Dockers (NUD) tried to conclude the strike. The dockers wanted higher wages and better conditions, while the company, represented by the NUD, offered lower wages and worsened working conditions. The strike lasted for several months, causing significant disruption to the economy.

The dockers' union, the National Union of Dockers, was determined to win their demands. The company, however, was equally determined to maintain its profits. The strike continued for several weeks, with both sides refusing to back down.

The strike ultimately came to an end when the company offered to negotiate with the dockers union. The dockers accepted the offer and the strike was ended. This event marked the beginning of a new era in labor relations in the dockyard.

In conclusion, the dockers' strike was a significant event in labor history. It demonstrated the power of organized labor and the importance of fair working conditions.

- End of the strike

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FW moves to ease labour tensions

By MICHAEL MORRIS, Political Correspondent

PRESIDENT De Klerk has moved to ease tension between the government and trade unions over proposals to change the Labour Relations Act, but has ruled out amending the legislation before next year's session of parliament.

He has agreed to Cosatu's request for a meeting which will take place at 10 am on June 26 at his office in the Union Buildings in Pretoria, and has suggested a way to speed up amending legislation for the next session of parliament.

Minister of Manpower, Mr Eli Louw, will attend the meeting next week.

Mr De Klerk has also invited the other parties to the agreement — Nactu and the employers' federation Saccola.

National stayaway

The meeting arises after Cosatu threatened a nine-point action plan — including a national stayaway — if Mr De Klerk did not step in to help resolve the dispute.

Conflict arose because Cosatu wanted the proposals written into the Act as amendments during this session. Mr Louw argued that there was not enough time.

Meanwhile, the Democratic Party has called for the second session of parliament this year, if necessary, to change the Labour Relations Act.

Manpower spokesman and Houghton MP Mr Tony Leon argued that the fact that the proposed amendments were the result of “consultation, negotiation and agreement” between the “giants” in the employer and employee spheres “means that they could ensure significant labour peace into the foreseeable future”.

He said the government's “foot-dragging” on the issue was disturbing.

Complex legislation

However, the President said in a letter to Cosatu general secretary Mr Jay Naidoo yesterday that it was “clear that further deliberations and discussions would be in the best interest of both workers and employers, before legislation is concluded.

“The parliamentary process does not allow for complex legislation of this nature to be finalised in a relatively short period of time. It will therefore not be possible to pass legislation in this regard during this session of parliament.”

He added “What would be possible, would be to introduce timeously, after negotiations, a Bill to the joint standing committee in order to provide ample time for this committee to finalise legislation before the start of the next session of parliament.”

In further reaction yesterday, Conservative Party spokesman on manpower, Mr Frank le Roux said that if Mr De Klerk made any concessions to Cosatu, they would be “willing victims of criminal blackmail”.

He accused Cosatu of using the National Party/ANC negotiations as a trump card to blackmail the government, and accused the government of creating a climate for labour unrest through its handling of negotiations on the Labour Relations Act.
No debate on labour

Political Staff

The Speaker, Mr. Louis le Grange, has rejected a request by the Democratic Party for a special debate on the Labour Relations Act which is now threatening widespread labour and industrial disruption.

Mr. Peter Gastrow, the DP's spokesman on manpower, said yesterday the party had requested a special debate on the "delay in bringing before Parliament the amendments to the Act as requested by both organized labour and management."
FW to see Cosatu over Act

President FW de Klerk has moved to ease tension between the Government and trade unions over proposals to change the Labour Relations Act, but has ruled out amending the legislation before next year's session of Parliament.

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Minister of Manpower, Mr Eli Louw, will attend the meeting.

De Klerk has invited Nactu and Saccola.

The meeting arises after Cosatu threatened a nine-point action plan - including a national stay-away - if De Klerk did not step in to help resolve the dispute.

Conflict arose because Cosatu wanted the Act amended this session. Louw argued that there was not enough time.

The Democratic Party has called for a second session this year, if necessary, to change the Act.

Manpower spokesman Mr Tony Leon argued that the fact that the proposed amendments were the result of "consultation, negotiation and agreement" between the "giants" in the employer and employee spheres "means that they could ensure significant peace into the foreseeable future."

However, the President said in a letter to Cosatu general secretary Mr Jay Naidoo yesterday that it was "clear that further deliberations and discussions would be in the best interest of both workers and employers."
Thousands to march in city today

Staff Reporter

THOUSANDS of city council, OK and Eskom workers are expected to march in Cape Town and Bellville tomorrow in support of “living wage” demands backed by an unprecedented cross-section of extra-parliamentary movements.

The marches were announced yesterday at a city press conference held to outline objections to President F W de Klerk’s reluctance to pass amending legislation to the Labour Relations Act.

Council workers, OK staff and Eskom workers are involved in ongoing and bitter labour disputes with their management.

For the first time in many years a press conference platform was shared by the PAC, the ANC, Azapo, the UDF, Cosatu and several member unions yesterday.

Chairperson Ms Lucy Nyembe, regional secretary of Cosatu, said this was because in the present supposed climate of “progressive labour relations we find we are being thrown back into the middle ages”.

This had “provoked” the organisations to unite in opposition.

Ms Nyembe added that the ANC executive was “very positive” about Cosatu’s call for the executive to review continued participation in negotiations with the government.
Professor Nic Wiehahn, widely acclaimed as the architect of South Africa's labour reforms in the early 1980s, has been appointed chairman of Transkei's National Manpower Commission.

Prof Wiehahn, who is best known for his 1979 report which laid the basis for the liberalization of labour dispensation, will also act as labour adviser to the Transkei government. — Sapa
Emergency meeting to debate LRA talks

AN emergency meeting of Cosatu affiliates, scheduled to begin tonight and probably continue today, is to decide whether to accept the invitation of President F W de Klerk to meet him on Monday to discuss the Labour Relations Act impasse.

Cosatu sources indicated there was a 50-50 chance of the unions agreeing to a meeting.

However, given De Klerk's position that passage of amendments to the Act during the current session of Parliament was impossible, there appeared very little scope for finding a solution which would defuse Cosatu's threat of widespread labour disruptions.

Rumours recently that Parliament might have to be recalled later this year to deal with a range of legislation appear to have been discounted, although this would be one possible solution to the problem. Nactu, Seccola and Manpower Minister M. Louw have also been invited to the meeting.

In a statement yesterday, Seccola said it was “frustrated that it has not been possible to at least begin the process of converting the NMC-endorsed proposals into law.”

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Numsa to make crucial decisions this weekend

By DICK USHER
Business Staff

CRUCIAL decisions affecting about 600 000 workers in four industrial sectors will be taken at a major union conference this weekend.

The National Union of Metalworkers (Numsa) second national bargaining conference in Johannesburg will deliberate progress in four sets of negotiations: metal and engineering, tyre and rubber, auto manufacturing and the motor trade.

It is a follow-up to February's first national conference which, in a step towards unifying the four sectors in which Numsa is involved, laid down positions and guidelines for this year's negotiations.

The vital element emerging from the conference was that the bargaining committee for each sector would no longer have decision-making power on settlements or deadlock, but these would have to be referred to a further bargaining conference.

After last week's sixth round of negotiations in the metal industry, the Steel and Engineering Industries Federation (Seifsa) issued an optimistic statement that "considerable progress" had been made in negotiations.

Seifsa said employers' final offer on wages ranged from 15 percent (R1.24 an hour) for artisans to 18 percent (64c an hour) for labourers.

In the three other sectors, a Numsa spokesman said some progress had been made on some issues but not on others.

While the ultimate drive is towards centralised bargaining around common demands, Numsa's position is that it wants to see satisfactory progress towards those goals this year.

The union's key demands include across-the-board increases of at least R2 an hour, a 48-hour working week, a limit on overtime and agreement not to implement the 1988 amendments to the Labour Relations Act.

The weekend's conference will be held report-backs from each sector on progress in negotiations and will deliberate further action.

Complicating the picture is the government's decision not to go ahead with legislation this year to amend labour legislation in line with the accord reached by the South African Employers' Coordinating Committee on Labour Affairs (Sacola) and the two union federations, Cosatu and Nactu.

Numsa, a Cosatu affiliate, is the major union involved in all four sectors, although Nactu affiliates such as the Metal and Electrical Workers Union (Mewusa) and the Steel, Engineering and Allied Workers Union (Seawusa) have a significant position in the metal industry talks with the Steel and Engineering Industries Federation (Seifsa).

Paralleling Numsa's position, another Cosatu affiliate recently took decisions on centralised bargaining at a social security conference.

The South African Commercial, Catering and Allied Workers Union (Saccawu) considered long-term strategies including industrial councils covering all workers in a sector or centralised bargaining with groups such as Tradeco, Metro and SAB Breweries, which controls OK Bazaars, Edgars and Sales House.

Cecawusa is presently on strike at OK Bazaars, is in dispute with Checkers and starts talks with Woolru this weekend.

In the medium-term, Cecawusa is to press for the same demands on wages and service conditions to be presented at all negotiations.

Another decision taken at the Saccawu conference mirrors a stance by another Cosatu affiliate, the Chemical Workers' Industrial Union (CWIU).

As part of its push for social security, Saccawu decided on a campaign for national provident funds in the commercial and catering sectors.

CWIU has for about the past two years been engaged in persuading employers to join the Chemical Industry National Provident Fund and has recently run several strikes over the issue.
NMC to look at the labour law

THE National Manpower Commission (NMC) will hear oral evidence on the consolidation and amendment of the Labour Relations Act from tomorrow until Friday, acting NMC chairman, Dr Frans Barker, said.

Neither Cosatu nor Nacu are scheduled to make submissions to the NMC technical committee.

The two trade union federations, together with the SA Consultative Committee on Labour Affairs employers’ organisation, are at the centre of a controversy sparked by the Government’s refusal to immediately legislate an alternative labour law drawn up by the three parties.

The media and the public are welcome to attend the hearings by the NMC technical committee, Barker said.

The hearings will take place at the Bifsa head office, 14 Alexandra Road, Halfway House.

On Wednesday, the NMC moves to the Midrand address of the Development Bank of South Africa, from where it will move back to the Bifsa offices on June 29.

Further inquiries can be directed to Mr F de Villiers of the NMC liaison division at (012) 310-6250 (work) or (012) 87-2374 (home). - Sapa.
Labour, Saccola to meet De Klerk

The National Council of Trade Unions will be part of the joint labour and employers' delegation which meets State President Mr F W de Klerk in Pretoria today to discuss the enactment of a new labour law.

The federation's assistant general secretary, Mr Cunningham Ngekuhana, said yesterday Nactu would be represented by six senior officials.

The meeting takes place at the Union Buildings in Pretoria. It follows threats of widespread labour unrest by the Congress of South African Trade Unions after the Government postponed enacting the draft labour law during the 1990 Parliamentary session.

Nactu, together with Cosatu and the South African Consultative Committee on Labour Affairs employers' body, are due to meet Mr de Klerk and Manpower Minister Elin Louw at 10am today, spokesman for the State President's office, Caspar Venter, confirmed.

The three parties responsible for the alternative Labour Relations Act accord planned to meet in Johannesburg late yesterday, Mr Ngekuhana added.

Comment

Commenting on the meeting with Mr de Klerk, a Saccola spokesman said the State President was "not the type of man who would arrange such a meeting for nothing".

A Cosatu spokesman was not immediately available for comment.

A delegation of ultra-rightists will be meeting State President F W de Klerk in Pretoria today to raise "rightwing and white" views of the "new South Africa".

Announcing this yesterday, Herstigte Nasionale Party chief secretary Mr L van der Schyff said the HNP, Afrikaner Weerstandsbeweging, Magsakie Afrikaner Nationalisme and Genootskap van Regte Afrikaners would be represented at the 2pm meeting with Mr de Klerk in the Union Buildings - Sapa.
Nactu joins talks with FW today

PRETORIA — The National Council of Trade Unions (Nactu) will accompany the joint labour and employers' delegation which meets President F W de Klerk here today to discuss the enactment of a new labour law.

Confirming Nactu's attendance, the trade union federation's assistant general-secretary, Mr Cunningham Ngcukana said yesterday Nactu would be represented by six officials.

The meeting follows threats of widespread labour unrest by Cosatu, after the government postponed enacting the draft labour law during this year's parliamentary session.

Nactu, together with Cosatu and the SA Consultative Committee on Labour Affairs employers' body (Saccola), are to meet Mr De Klerk and Manpower Minister Mr Eli Louw, a spokesman for Mr De Klerk confirmed.

Commenting on the meeting with Mr De Klerk, a Saccola spokesman said the State President was "not the type of man who would arrange such a meeting for nothing."

A Cosatu spokesman was not immediately available for comment — Sapa
Labour hearings are open

The National Manpower Commission will hear evidence on the Labour Relations Act over the next four days during hearings that are open to the public.

The hearings today and on Friday will be at the head office of the Building Industries Federation of SA, 14 Alexandra Road, Halfway House.

The hearings tomorrow and on Thursday will be at the Development Bank of South Africa, Midrand

Proceedings begin at 8 am.
Unions, Right to meet FW

President de Klerk will meet a delegation of trade unions and employers today, as well as spokesmen for ultra-Right organisations. The National Council of Trade Unions (Nactu) will accompany the joint labour and employers' delegation which will meet Mr de Klerk in Pretoria to discuss the enactment of a new labour law.

Nactu assistant general secretary Cunningham Ngcuwana said yesterday that Nactu would be represented by six senior officials.

The meeting at Mr de Klerk's Union Buildings offices follows threats of widespread labour unrest by the Congress of South African Trade Unions (COSATU) after the Government had failed to enact the draft labour law during the 1990 parliamentary session. Nactu, COSATU and the employers' body, the SA Consultative Committee on Labour Affairs (Saccola), are due to meet Mr de Klerk and Minister of Manpower E. Louw at 10 am.

White views

- A delegation of ultra-Rightists will meet Mr de Klerk in Pretoria today to raise "right-wing and white" views of the "new South Africa".

Hertigte Nasionale Party chief secretary L.J. van der Schyff said yesterday that the HNP, Afrikaner Weerstandsbeweging (AWB), Magaskas Afrikaners Nationaalsame (MAN) and Genootskap van Regte Afrikaners (GRA) would be represented at the 2 pm meeting.

The meeting had resulted from the ultra-Rightists not being represented in Parliament, Mr van der Schyff said.

The HNP would be represented by party leader Jaap Marais and his deputy, Myburgh Petersen, while Ernie van der Westhuizen and Nico van Rensburg would go on the AWB's behalf.

The AWB's "commandos" would be represented by former policeman Colonel Servaas de Wet - Sapa.
Hearing into
LRA to begin

THE National Manpower Com-
mmission (NMC) technical commit-
tee will begin hearing verbal evi-
dence today as part of its
investigation into the "consolida-
tion and amendment" of the 1956
Labour Relations Act, according
to NMC acting chairman Frans
Barker.

The Federation of Safaried
Staff Associations of SA, the
Building Industries Federation SA
(Bifs) and the American Cham-
ber of Commerce in SA will give
evidence today.

The commission, which will
meet till Friday, will also hear
evidence from Barlow Rand
Limited, Plymouth Brethren, the
SA Chamber of Business, the As-
sociation of Law Societies, Sasa
Limited, the Mineworkers' Union,
Transnet Union, the Council of
Mining Unions, the Labour Foun-
dation, the SA Employers' Consult-
tative Committee on Labour Af-
fairs (Saccola) and the Chamber
of Mines.

The Labour Relations Act will
also be discussed by President
F.W. de Klerk at his meeting with
representatives of Cosatu, Sacc-
ola and Nactu in the Union Build-
ings today.
Unions meet FW

But trade union representatives warned of continued pressure backing their demand for speedy enactment of a new labour accord.

De Klerk, Manpower Minister Mr Eh Louw, representatives of the South African Consultative Committee on Labour Affairs (Sacola) and office bearers from Cosatu and the National Council of Trade Unions (Nactu) met in the Union Buildings to seek a solution to the crisis.

The parties emerged confident from the meeting in De Klerk's Union Building offices that the working group would pave the way for mutually acceptable labour legislation.

And a statement issued by the State President's office hinted that the desired labour law could be finalised early during the 1991 parliamentary session.

Cosatu was represented by its general secretary, Mr IJN Naudoo, Mr Cyril Ramaphosa, general secretary of the National Union of Mine Workers, Mr Jeff Schmelev and Mr Vusi Khumalo.

Nactu's delegation included Mr Cunningham Ngcukana, (general secretary), Ms Humphrey Nsaba, Ms Mmopopi Molefe and Mr Mshack Ramela.

Sacola was represented by Mr Bobby Godsell, Mr Bokkie Botha, Mr Naas Steenkamp, Mr JP Landman, both of the Afrikaans Handels Instituut, Mr Johan Liebenberg of the Chamber of Mines, Mr Lesly Boyd and Mr Andre Lamprecht, both from the South African Chamber of Business, Mr Dawid Mostert and Mr Bram Angus, both from Seifisa Ngekukana told newsmen after the meeting that "nothing concrete" had been achieved.

Naudoo believed that more substantial progress could have been made but no immediate results have been achieved.

Ngcukana yesterday said they did not rule out the possibility of strike action as a protest against the Government's stance.

Sacola's Bobby Godsell said the desire of the parties to this accord, to give it legislative expression as quickly as possible was noted, as was the Government's concern to allow for further consultation and due legislative process.
Labour inquiry disrupted

The National Manpower Commission (NMC) public hearings regarding the consolidation of labour relations were suspended indefinitely after the first day's proceedings at Halfway House were interrupted by a National Council of Trade Unions (Nactu) protest yesterday.

The commission was to have heard four days of evidence from various unions, industrial federations and business groups, as part of its investigation of the Labour Relations Act (LRA) of 1956.

At 11 am, a delegation of about 50 singing Nactu members refused to allow the sitting to continue. They demanded the hearings be postponed until Nactu's suggested changes to the LRA, made in agreement with the Congress of South African Trade Unions (Cosatu) and the South African Co-ordinating Council on Labour Affairs (Saccola), became law.

The Government failed to legislate the suggested Saccola/Cosatu/Nactu amendments to the LRA in the parliamentary session which has just finished.

At the Halfway House hearing, Nactu said the NMC's recommendations on the Saccola/Cosatu/Nactu accord had not been made available to them. They said the NMC and the Department of Manpower wanted to undermine the accord.

NMC acting chairman Dr Frans Barker issued a statement saying the NMC investigation into the LRA should be seen as separate from the Saccola/Cosatu/Nactu accord and not as an alternative to it.

Builders can get insurance cover on defects

By Jabulani Sikhakhane

The Builders Civils and Engineering Underwriting Managers (BCE) has launched a unique home defects insurance scheme which provides indemnity against defects in design, materials and workmanship for a five-year period after completion of the building.

Underwritten by Fedgen, the scheme will cover houses, townhouse complexes, cluster homes, small flat developments and single-storey shopping malls.

Cover is subject to the builder/contractor being a member of the Building Industries Federation of SA (Bifsa), through membership of the regional Master Builder’s Associations or Building Industries’ Associations.

Each association will be required to approve each member’s application for HDI cover.

The premium, payable on completion of the building, is one percent of the replacement value of the property for five years and a minimum premium of R1 000 applies.

A plus for home owners is that the value of properties protected by the scheme will have a much higher resale value.

Fedgen has also launched another insurance package for companies (Bifsa and MB members) with a turnover of to R5 million. The policy offers cover of up to R2.5 million of any one contract, public liability of R1 million on every loss and sum insured of R50 000 on contractor’s plant.

Building materials in transit (insured vehicles), in storage, insured premises will be covered up to R25 000.
Manpower inquiry at secret venue after protest

DANIEL FELDMAN

THE National Manpower Commission (NMC) resumed hearing oral evidence yesterday on the consolidation of the Labour Relations Act, but the proceedings were conducted in camera, NMC acting chairman Frans Barker said.

He said evidence by Barlow Rand, Plymouth Brethren and the Iron and Steel Industrial Council was heard at "a secret venue" yesterday.

The decision was taken after the first day of hearings on Tuesday was suspended due to chanting Nactu members. They demanded an end to the hearings until "the Saccoc-Scsac-Nactu (SCN) labour relations accord was translated into legislation".

Barker said the remainder of the scheduled hearings would still be held today and tomorrow. He said they might be reopened to the public depending on Nactu's plans.

Objections

Nactu general secretary Cunningham Ngcukama said the union would not protest at today's hearings. He intended to speak to Barker about the union's objections to the hearings.

American Chamber of Commerce in SA executive director Wayne Mitchell said he was disappointed at not having a chance to present the chamber's viewpoint to the commission on Tuesday. The chamber favoured the proposed accord, he said.

Manpower Minister Eln Louw announced in a statement yesterday that the NMC's report on the SCN accord would be published in a Government Gazette tomorrow for comment by not later than July 31.

Sapa reports from Pretoria that Louw's announcement came a day after President FW de Klerk met labour representatives in a bid to defuse the crisis over enactment of the accord.
Domestic workers stage march

ABOUT 300 city domestic workers marched yesterday under an ANC banner to demand labour law protection.

The group, representing Sadwu (the South African Domestic Workers' Union), marched down Darling Street and across the Parade to the Thomas Boydell building, where a list of demands was handed over to a department of manpower official.

Some of the demands include an eight-hour working day, a minimum wage and three weeks' paid leave.

"Domestic workers have been ignored and are at the mercy of employers," said Sadwu national treasurer Ms Myrtle Witbooi.
Commission forced to use secret venue

Disruption by trade unionists forced the National Manpower Commission to use a secret venue to continue its hearing of oral evidence on the consolidation of the Labour Relations Amendment Act yesterday.

Regretting the move, NMC acting chairman Dr Frans Barker said the commission did not want to hold the hearings in camera, but added “It does not help if proceedings are disrupted”.

He was referring to a protest on Tuesday by members of the National Council of Trade Unions, who chanted outside the commission venue in the Building Industries Federation head office at Halfway House.

The protesters were demanding that the NMC technical committee examining the LRAA stop taking oral evidence until the Cosatu/Nactu/Saccola labour relations accord was written into law.

Further hearings were due to take place in the Midrand headquarters of the Development Bank of South Africa, but Dr Barker declined to say where subsequent hearings would be conducted.

The final hearing takes place today and parties would be informed of the venue, he said.

Employer and industrial relations groupings which attended yesterday’s session included the 66,000-member SA Consultative Committee on Labour Affairs, Chamber of Mines, Labour Foundation, Building Industries Federation, SA Chamber of Commerce, American Chamber of Commerce in SA and Sasol.

Labour unions were represented by the all-white Mineworkers Union and Transnet Union — Sapa.
National protest campaign angers bosses

Stayaway workers will risk penalties

By Shehnaaz Bulhulla
and Karen Stander

Employers may take disciplinary action against workers
who heed the ANC/Cosatu call
for a national stayaway and
nationwide protests planned
for next week.

All companies interviewed by The Star said a policy of "no work, no pay" would be followed. Some said disciplinary action could be taken.

The Cosatu campaign, endorsed by the ANC and the UDF, aims to force the Government to take action against KwaZulu Police and Inkatha "warlords" to end the six-year Natal war which has cost 3,000 lives.

Next week's protest campaign has pitted the ANC and Cosatu in a new confrontation with Inkatha, while the South African Council of Churches has formed a peace proposal in a bid to defuse possible violence.

The National Council of Trade Unions (Nactu) and the Pan Africanist Congress (PAC) will not support the campaign. The PAC has appealed to the ANC to halt the campaign, saying it could only serve to heighten the conflict between the ANC and Inkatha.

An SACC code of conduct during the campaign has been endorsed by both the ANC and Inkatha.

Yesterday both Cosatu and Inkatha called on growing factions not to intimidate workers either opposed to, or supporting the stayaway.

Employers interviewed yesterday expressed concern with the organizers of the stayaway and said the protest action would do little to solve the Natal conflict.

Mockery

Anglo American spokesman James Duncan said the company did not support stayaways as a means of solving problems. Anglo would implement its policy of "no work, no pay".

The managing director of the South African Breweries Beer Division, Graham Mackay said SAB had also adopted a policy of "no work, no pay" and, depending on the circumstances, disciplinary action may be brought against workers who heed the stayaway call.

Cosatu's campaign, Mr Mackay added, was making a mockery of the ongoing talks between employers and organized labour.

Chains stores have arranged for hostesses and students to fill in for protesters at the tills.

At a press conference in Johannesburg yesterday called by Cosatu, the UDF and the SA Youth Congress (Syoce), Cosatu general secretary Jay Naidoo said the intention of the week of protest was to pressure President

No sale...nanny Mina Thobedi was confronted by two men who offered R1,000 to buy fourteen-month-old Chandre for a witchdoctor.

Men try to buy baby for witchdoctor

By Shareena Slough

Two men tried to buy a 14-month-old baby for a witchdoctor, a young Kenilworth mother told The Star yesterday.

Debbie van Rynveld, of Witpoortjie, said she was shocked when her maid, Mina Thobedi, telephoned her at work and told her that two men had offered R1,000 for her son Chandre.

When Mina refused to hand over the baby, the men said they would send someone later with R5,000 to collect it for a witchdoctor.

Mrs van Rynveld and her husband rushed home immediately and telephoned the police. The police kept a watch on the house from a side street. Mrs van Rynveld said at about 3pm a man shouted to the maid from across the road that he had come to collect the baby.

But then he realised the parents were at home and said he would be back today.

Mrs van Rynveld said her husband would be able to identify the man, but the police did not see the incident.

Since the ordeal she has taken Chandre and Mina to work with her: "I am too scared to leave my baby at home," she said.
South African Council of Trade Unions (NACTU) and the Pan African Congress (PAC) will not support the campaign. The PAC has appealed to the ANC to halt the campaign, saying it could only serve to heighten the conflict between the ANC and Inkatha.

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Chain stores have arranged for housewives and students to fill in for protesters at the tills.

At a press conference in Johannesburg yesterday called by Cosatu, the UDF and the SA Youth Congress (Sayco), Cosatu general secretary Jay Naidoo said the intention of the week of protest was to put pressure President de Klerk to put an end to the war in Natal.

‘Find the will’

Mr Naidoo said the State had the capacity to end the conflict, if it could find the political will. The national mass action is designed to encourage it to find that will.

In Ulundi yesterday, Inkatha president Chief Mangosuthu Buthelem said there had not been “one single call for a stay-at-home which had not been enforced upon the people.”

It was tragic that the leadership of the ANC, including deputy president Nelson Mandela, still insisted that the armed struggle was necessary and should not be called off, he said.

In Durban, ANC leader Walter Sisulu said Monday’s stayaway action was decided upon because “we have no other weapon at our disposal” for ending the Natal carnage.

“The ANC reiterates in the strongest terms possible our support for the nationwide stayaway,” he added.

Mr Sisulu said the steps needed to achieve Natal peace included disarming the KwaZulu Police, dismantling the “KwaZulu bantustan” and arresting known “warlords.”
Belanghebbendes wat vertoe rig, moet daarmee rekening hou dat die Raad sy aanbeveling baseer op die beste inligting beskikbaar met betrekking tot —

(a) die omstandighede waaronder die harpuss ingevoelige artikel 56 (1) van die Doeeane- en Aksynswet, 1964, geag kon word gedump te wees, veral ten opsigte van die pryse waarteen harpuss in die normale verloop van handel in die Volksrepubliek Sjina, Hongkong en die Republiek Indonesië verhandel word, en die pryse waarteen harpuss uit die Volksrepubliek Sjina, Hongkong en die Republiek Indonesië uitgevoer word,

(b) wesentlike skade ondervind deur die Suid-Afrikaanse bedryfstak;

(c) die mate waarin die dumping die oorsaak van die wesentlike skade is; en

(d) die vraag of dit in die openbare belang is om op te tree teen die dumping

Enige navrae moet geng word aan mnr. J Gelderbloom by telefoon (012) 322-8244, bylyn 211.

[RHN-verw. T5/2/6/2/5]

(29 June 1990)

KENNISGEWING 532 VAN 1990

DEPARTEMENT VAN MANNEKRAG

WET OP ARBEIDSVERHOUDDINGE, 1956

Hierby word vir algemene inligting bekendgemaak dat die Media Workers' Association of South Africa, met ingang van 19 June 1990, ingevolge artikel 4 (7) van die Wet op Arbeidsverhoudinge, 1956, as 'n vakvereniging geregistreer is ten opsigte van Swart persone as voltydse of los werknemers in diens in die Media-, Drukkers-, Verpakking- en Verwante Bedryf soos hieronder omskryf, in die landdrosdistrikte Benoni, Die Kaap, Durban, Johannesburg, Krugersdorp, Nelspruit, Pietersburg, Pretoria, Roodepoort, Sstellenbosch, Vereeniging en Witbank.

"Media-, Drukkers-, Verpakking- en Verwante Bedryf" beteken sonder om die gewone betekenis daarvan enigerwys te beperk die bedryf waarin werkgevers en hul werknemers gemoeid is met —

(i) die produksie en verspreiding van nuus, en omvat werknemers in diens in die Elektroniese Media as fotograaf, verslaggewers, koerantverspreiders, drywers, verkopers, masjienoperaties, invoegers, klerke, teksters, videokameeroperateurs, aanbeiders en beeldmengers; en

(ii) die produksie van drukwerk van watter aard ook al, met inbegrip van stereotypering, proeflies, lettergieting, elektrotypering, fotoblokmekaar, fotogravure, litografie, drukkersingeneurswerk, drukkerspakhuiskweek, stempelwerk, boekbindery, linieren, afsnijwerk, systeemprosedruk, dupliseering en inkminging, en omvat die produksie van houers, sakke, omhulsel of enge ander soort houer gemaak van papier of enge ander buigsonde materiaal,

en dit omvat alle werksoamhede wat met voorvolke bedrywighede gepaard gaan of daaruit voortgespruit

(29 June 1990)

Interested parties who wish to make submissions should bear in mind that the Board's recommendation will be based on the best information available in respect of —

(a) the circumstances under which rosin may, in terms of section 56 (1) of the Customs and Excise Act, 1964, be regarded as being dumped, particularly in respect of prices at which rosin is being sold in the ordinary course of trade in the People's Republic of China, Hong Kong and the Republic of Indonesia and prices at which rosin is exported from the People's Republic of China, Hong Kong and the Republic of Indonesia;

(b) material injury being experienced by the South African industry;

(c) the extent to which the dumping causes the material injury, and

(d) whether it is in the public interest to act against the dumping.

Any enquiries should be directed to Mr J Gelderbloom at telephone (012) 322-8244, extension 211

[RHN-verw. T5/2/6/2/5]

(29 June 1990)

NOTICE 532 OF 1990

DEPARTMENT OF MANPOWER

LABOUR RELATIONS ACT, 1956

It is hereby notified for general information that the Media Workers' Association of South Africa, has with effect from 19 June 1990, in terms of section 4 (7) of the Labour Relations Act, 1956, been registered as a trade union in respect of Black persons employed in a full-time or casual capacity in the Media, Printing, Packaging and Allied Industry, as defined below, in the Magisteral Districts of Benoni, Durban, Johannesburg, Krugersdorp, Nelspruit, Pietersburg, Pretoria, Roodepoort, Sellenbosch, Pretoria, Sellenbosch, The Cape, Vereeniging and Witbank.

"Media, Printing, Packaging and Allied Industry", without in any way limiting the ordinary meaning thereof, means the industry in which employers and their employees are concerned with —

(i) the production and distribution of news, and includes employees employed in the Electronic Media as photographers, reporters, newspaper distributors, drivers, vendors, machine operators, inserters, clerks, typists, video camera operators, producers and vision mixers; and

(ii) the production of printed matter of any nature whatsoever, including stereotyping, proof-reading, type casting, electrotyping, process engraving, lithography, printer's engineering, printer's warehousing, stamping, bookbinding, ruling, cutting, silk-screen process printing, duplicating and ink mixing, and includes the production of containers, bags, wrappers or any other form of container produced from paper or any other flexible material,

and includes all operations incidental to or consequent on any of the aforementioned activities

(29 June 1990)
Labour movement reconsiders closed shop

SA's LABOUR movement is fast changing its collective mind on the desirability of the closed shop.

Seen by black unions for many years as a white union ploy to entrench job reservation, the closed shop is now finding favour, according to an article in the latest edition of the SA Labour Bulletin.

Co-authored by Chemical Workers' Industrial Union general secretary Rod Crompton and labour lawyer Chris Albertyn, the article expresses misgivings about "free riders" and concludes:

"The main concern hinges on how a union deals with those who refuse to belong to the union or participate in disputes but nevertheless take advantage of benefits won by the union."

They also say free riders, by scabbing during strikes, make it easier for employers to dismiss striking union members.

Various suggestions, designed to counter negative viewpoints, are put forward including one that a majority in a bargaining unit should be required to ballot in favour of introducing a closed shop and that there should be a regular review.

A mechanism should also be present which would enable a significant minority (30% to 40%) to petition for a re-ballot during a two-year period.

See Page 12
LRA commission completes hearing

THE National Manpower Commission (NMC) completed its hearing into the consolidation of the Labour Relations Act (LRA) on Friday, opening its doors only to the media after hearings were temporarily suspended last week due to protesting National Council of Trade Unions (Nactu) members.

NMC acting chairman Frans Barkly said oral evidence was presented on Friday by the SA Employers' Consultative Committee on Labour Affairs, Building Industries Federation of SA, SA Chamber of Business, Chamber of Mines, and the American Chamber of Commerce in SA.

He said the "full programme was very valuable," and the technical committee would now redraft its working document and submit it to the full commission by the end of July.

He expressed hope that the commission would be able to "draft something in legislative form fairly soon."

Each organisation presented opinions on aspects of the commissioner's current working document, including trade union and employer organisations, industrial councils, conciliation boards, bargaining levels, voluntary and compulsory arbitration, strikes, pickets, lockouts, labour brokers, drafting styles, unfair labour practices, and employee rights.
SA sitting on a time-bomb as strikes threaten industry

By CONNIE MOLUSI

SOUTH Africa is sitting on an economic time-bomb, with thousands of black workers on strike in the mining, health, metal, and transport industries.

And a large section of organized labour is this week bracing itself for massive strike action in coming months.

"This large-scale mobilization will not abate in the months ahead, in the light of the government's decision regarding amendments to the Labour Relations Act and the possible results of the annual wage talks," said labour consultants Levy, Piron and Associates.

They warned of "an unprecedented wave of industrial action which employers would find difficult to counter".

Employer, union and government spokesmen said the strike surge is due to a combination of heightened worker expectations resulting from recent political changes, and South Africa's economic problems.

Already 50 540 workers are on strike countrywide. The number swelled by a further 25 000 this week when mineworkers downed tools in the Free State goldfields to protest against the arrest of colleagues.

The retail industry has been hard hit, with leading chain-stores OK Bazaars and Checkers crippled by wage strikes countrywide.

The South African Commercial and Catering Allied Workers' Union (Sacecawu) is leading the field in terms of man-days lost as the result of the prolonged OK Bazaars strike involving 7 000 workers.

OK has threatened to retrench 500 workers if the strike does not end soon.

In the catering industry, 5 500 workers employed by the giant Southern Sun hotel group are out on a wage strike, while 10 000 workers at Checkers are on strike.

Sacecawu also has wage disputes with Edgars, Metro...
Hotel strike: sides opt for mediation

By Shareen Singh
After six eviction orders and allegations by both management and union in the Southern Suns national strike, the parties have opted for mediation to try to solve the dispute.

The Industrial Court hearing in the South African Commercial Catering and Allied Workers Union’s (Saccawu) application against the company’s eviction orders was postponed to next Wednesday.

Southern Suns’ application to declare the strike at Malibu Hotel illegal was heard in the Supreme Court, Durban yesterday. The court ruled that the union must prove majority membership and conduct a strike ballot. Workers must resume work while the process was taking place.

Union spokesman, Allan Horwitz, said the strike was costing Southern Suns vast sums of money. Scab workers were being paid R8.50 an hour amounting to R1 500 a month and the company had also employed many security guards, he said.

This, coupled with the phenomenal costs involved in obtaining the six interdicts has confirmed for the union that the company was playing “a power game” rather than considering economics, the union said.

Southern Suns spokesman, Karl Ladick, said higher rates were paid to casual workers because the company had to obtain casual staff at short notice.

Mr Horwitz stressed that the strike was not only about wages. A central issue in the dispute was the unions demand for the reinstatement of 107 workers dismissed at four holiday resorts.

Management must move on both issues and offer a package deal if they wanted settlement, the union said.

The parties will start mediation tomorrow.

Cosatu will reconsider mass action plan if talks go well

By MICHAEL MORRIS
Political Correspondent

THE Congress of South African Trade Unions has undertaken to reconsider its programme of mass action in protest at the government's handling of the Labour Relations Act dispute. This will happen if the working party set up after talks with President De Klerk comes up with "satisfactory proposals".

The undertaking was made yesterday after the first meeting of the working party.

But Cosatu also indicated that it would only take part in the working party if there was certainty that it would conclude its work within 30 days, that none of its proceedings were cloaked in secrecy and that the aim was to "formulate a settlement for consideration by all constituencies."

The working party was set up after President De Klerk stepped into the growing row over the government's refusal to bring labour legislation in line with the agreement between Cosatu, the National Council of Trade Unions and the employers' federation, Saccola, during the past session of parliament.

The government argued that key elements of the agreement needed to be discussed by organisations which were not party to it.

It suggested the law be amended during next year's session of parliament.

Saccola and department of manpower representatives at yesterday's meeting agreed to consider the conditions Cosatu set for taking part in the talks, as well as a number of other proposals.

If the conditions are accepted, the working party will meet again on July 26.

The other proposals Cosatu made were that the government should agree that:

1. All public sector workers be granted basic worker rights immediately,
2. There should be no "secret meetings" with employers on labour relations, and that
3. A second interim Bill be drafted immediately to extend the Labour Relations Act to all workers and on a proper Labour Appeal Court system.

Cosatu also wants Saccola to agree to measures between now and the enactment of the original Amendment Bill to give effect to the agreement between them.
Secret talks may have influenced FW, says Cosatu

By DREW FORREST

"CLANDESTINE" talks with union and business representatives may have influenced State President FW de Klerk during last month's Labour Relations Act crisis, claims the Congress of SA Trade Unions.

Cosatu's Geoff Schreiner said the federation had hard information that public service unions and businessmen on the Economic Advisory Council had urged De Klerk in secret meetings last month to delay LRA amendments based on the "Saccola accord".

At the first meeting this week of the "joint working party" on the LRA, proposed at the recent union-employer encounter with De Klerk, Cosatu demanded an end to secret talks between the state, business and unions.

Comment from the president's office could not obtained yesterday. But a Public Service Association source confirmed that the LRA was raised at a meeting between recognised public service unions and De Klerk on June 12.

"The meeting was mainly about wages, and was public knowledge," he said. "But we did ask the President for more time to consult members on the proposed Bill."

De Klerk announced three days later that Parliament would not pass the Bill during the current session.

Cosatu has reacted by intensifying its LRA demands. At the "working party" talks this week, it demanded the enactment of two Bills by no later than early next year: the original Bill, based on the Saccola accord, and further legislation extending the LRA to all workers and creating a "proper" Labour Appeal Court system.

Other demands were that the state immediately grant basic worker rights in the public sector and secure the backing of Cosatu, Saccola and Nactu for any further changes to the LRA.

At the talks, Cosatu demanded the other parties accept that the working group complete its work in 30 days and formulate a settlement for consideration by their constituencies. It added that its programme of mass protest on the LRA could be assessed in the light of an acceptable solution.

It also called on Saccola to agree on measures giving force to the Saccola accord in advance of legislation.

Yesterday, Nactu, which did not attend the working party talks, said it would decide whether to participate at a national council meeting later this month.
26,000 in human chain protest

Labour Reporter

IN one of Cape Town's biggest trade union demonstrations, more than 26,000 clothing and textile industry workers formed a 'human chain' in support of a workers' charter.

Wet weather failed to dampen exuberance as hundreds of workers, mostly women, spilled out of about 300 factories from Worcester to Cape Town to form separate chains in 15 industrial areas yesterday.

The lunch-hour pavement protest was organised by the SA Clothing and Textile Workers' Union and organiser Mr Ebrahim Patel hailed it as "a huge success.

DISCIPLINE

He said the demonstration was free of violent incidents.

Police kept a low profile as workers, decked out in the union's colours of red and yellow, waved placards, sang and toyi-toyed.

In Salt River about 8,000 people lined Victoria Road for several kilometres and traffic was disrupted when toyi-toying workers surged into the road.

Some motorists hooted and shouted messages of support.

At Epping an estimated 5,000 took part, Parow Industria 2,500, Eimex River 2,100 and Atlantis 2,200.

About 1,100 linked arms in Paarl, 200 in Wellington and 600 in Worcester.

Mr Patel said the demonstration was proof of the "depth of worker interest in the changes taking place in South Africa and the determination of workers to have their rights incorporated in a post-apartheid constitution."

The right to strike and picket, bargain with employers, belong to a trade union and trade union independence are included in the Cosatu workers' charter.

But the Cape Clothing Manufacturers' Association complained that the campaign was being "taken to the streets" instead of before the Industrial Council.

Several employers extended lunch hours by 30 minutes to allow employees to protest.
KENNISGEWING 584 VAN 1990
ADMINISTRASIE: VOLKSRaad
DEPAReMTMNT VAN LANDBOU-
ONTWIKKELING

KENNISGEWING VAN VErGADERING VAN
SKULDIESEItS KrAgTEnS ARTIKEL 22 (1) VAN
DIE WET OP LANDBOUKREDIET, 1966

Hierby word 'n vergadering van ondergoenemde appli-
kante en hulle skuldesiers op die plek en datum hier-
onder genoem, belê, met die doel om skuldesiers in
staat te stel om hul vorderings teen die applicant te
bewys en 'n skikkingsvoorstel van die Landboukrediet-
raad te oorweeg.

J. H. RADEMEYER,
Direkteur Directoraat Finansiele Bystand,
Departement van Landbou-ontwikkeling.

Aanwoon van
Application by
Helena Susanna Steyn, Louis Philippus Steyn en
and Rondawel-Noord (Fidac) Bpk (Pty) Ltd,
vandie plaas/soffaarm Ruslaans, Posbus/P O
Box 163, Bothaville, 9660

Plek van byeenkoms
Place of meeting
Kantoor van die
Magistrate's Office,
Bothaville

Datum en tyd
Date and time
22 August/August 1990 om/AT
09 00

(20 Julie 1990)/(20 Julie 1990)

KENNISGEWING 585 VAN 1990
ADMINISTRASIE: VOLKSRaad
DEPAReMTMNT VAN LANDBOU-
ONTWIKKELING

KENNISGEWING VAN VErGADERING VAN
SKULDIESEItS KrAgTEnS ARTIKEL 22 (1) VAN
DIE WET OP LANDBOUKREDIET, 1966

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raad te oorweeg.

J. H. RADEMEYER,
Direkteur Directoraat Finansiele Bystand,
Departement van Landbou-ontwikkeling.

Aanwoon van
Application by
Wybrand Willem Matthews, van die plaas/sof the
farm Voetpadrif, Posbus/P O
Box 356, Leeudoringstad, 2640

Plek van byeenkoms
Place of meeting
Kantoor van die
Landdros/Magistrate's Office,
Wolmaransstad

Datum en tyd
Date and time
7 September 1990 om/AT
09 00

(20 Julie 1990)/(20 Julie 1990)
Strikers have a right to picket.
But is it legal?

Strike pickets have emerged as a major flashpoint on the labour front. It's a key right—according to experts—but of uncertain legality in South Africa.

DREW FORREST reports

Adriaan Voisk ... Using the velvet glove tactic regarding picketers' right to hire scabs, comments Wits University law professor Martin Brossy. "Where strikes are institutionalised and strike-hit employers tend to shut up shop, as on the Continent, jobs and pickets are less of a feature."

Labour lawyer John Brand remarks that the picket is a logical extension of the free-market ethic the state claims to espouse. "There are two options: either you empower workers to fight for themselves, or the state has to step in."

Other commentators believe picketing provides a vital safety-valve for the violence inherent in strikes. Professor Eddy Webster, the head of the Wits sociology department, points out that between 1884, when the British authorities started to concede the right, and 1984 not a single "scab" was killed in the United Kingdom. "If you stop picketing and deny access to the workplace, you weaken the union's power to discipline its members. A culture of covert coercion emerges, where strikers discipline their fellows away from the workplace and collective control."

The absence of a clear legal framework has prompted a growing move in South Africa towards self-regulation. Often, unions issue their own strike rules. During the 1988 national metal industry strike, for example, the National Union of Metal-workers circulated a code urging picketing strikers not to drink liquor, damage property or resort to violence or intimidation.

In the wake of NUMSA's ground-breaking agreements with West German companies, employer-union deals enshrining the right to control picketing are also on the increase, says labour consultant Brian Allen. "Managements are saying, 'Let's permit it and regulate it'. They're pragmatic— they see the practice can't be stopped."

Typically agreements specify the location, spacing and numbers of pickets, and bind picketers not to display defiant placards or interfere with customers, suppliers and non-strikers.

The signs are that the state is also preparing to recognize, if it can, the practice of picketing.

In its latest annual report, the National Manpower Commission announced that it had drawn up a picketing code for submission to the Manpower Minister Elia Louw this year. And the NMC's recent "working document" on the consolidation of the LRA proposes that some forms of picketing should be an unfair labour practice.

An alternative view in the working document is that all picketing should be banned—but this apparently reflects the minority view of white unions, who fear their members, habitual strike-binders, may be harmed or intimidated.

Acting NUMS chairman Dr Frans Barker and the picketing code would not be given the force of law, as this was too inflexible.

In line with the British model, the intention was to have a set of guidelines which could be used as evidence in the industrial court, he said.
That collective bargaining must be institutionalised at relatively central levels if there's to be any kind of social regulation or compact between the State, capital and labour.

The assistant director of the Wits Centre for Applied Legal Studies, Halton Cheadle, argues that some form of regulation is important to set reasonable standards. The Free Market Foundation is very wary about this.

The Labour and Economic Research Centre's Taffy Adler illustrated how industrial councils have made a significant contribution to general social welfare, preventing wages from sinking to very low levels in the past. He argues that the gradual demise of industrial councils has had the effect of lowering employment standards and damaged collective bargaining as an institution.

Ironically, says Adler, the result of the break-up of industrial councils is a massive additional burden to the State and society as a whole.

It is argued that deregulation and privatisation are taking place without reference to unions or negotiation, and here Competition Board chairman Pierre Brooks, unable to gainsay the charge, came in for a roasting. Natal University's Chris Albertyn describes this by-passing of the unions in the changing of regulations as typical of the features of the authoritarian state, as outlined by UCT Prof. Andre du Toit in an earlier address.

The charge seems to be supported by the concerns expressed by Adolph Landman (chairman of the labour relations committee of the National Manpower Commission), about the Department of Manpower holding back the law-making process for pushing through the Saccoa-Cosatu-Nactu accord.

"I suggest the department is overstepping the mark," Landman stuck his neck out, adding that though the NMC is government's official adviser, "it does seem to have other advisers who are not publicly accountable."

UCT's Clive Thompson says any new legislation has to serve two periods - the present transitional phase as well as the new order to come.

Is ironic that labour, once at the progressive forefront, has now started to lag behind political developments. The search for better dispute resolution procedures that measured up to ILO standards, says Thompson, is being thwarted by the Department of Manpower.

He believes it a curious omission that the draft labour legislation makes no mention of affirmative action - essential to the future.

While we have a core of fairly well-protected industrial workers, says Thompson, there is a crucial need, linked to the land issue, to extend such rights to rural workers. Labour and management are going to have to adjust their attitudes in order to replace SA's deeply adversarial labour relationship with a co-operative one. Union autonomy, he adds, is going to be crucial in the new SA if democratic pluralism is to succeed.
Workers march for basic rights

By LULAMA LUTI

FOR the second time in just over a year, domestic workers in the Witwatersrand took to the streets of Johannesburg this week, demanding recognition for their union.

Holting brooms, brushes, buckets and other cleaning equipment, about 5,000 domestic workers marched from Saratoga Avenue near Berea to the Johannesburg regional offices of the Department of Manpower in President Street.

They handed a letter to director of local affairs JJ Knoesen, demanding coverage in terms of the Employment Act and protection as workers under the Labour Relations Act.

Spokesperson for the South African Domestic Workers’ Union (Sadwu), Selina Vilakazi, said by defying a directive which gave permission for only 500 people to march, domestic workers were displaying impatience at the authorities’ reluctance to respond to demands.

“We are sick and tired of being told our demands are still being looked at. We demand the prompt response of those in authority. They can rest assured campaigns against exploitation will intensify until we are recognised.”

Domestic workers are also demanding a minimum monthly wage of R450, a 40-hour week, the right to receive visitors, decent accommodation, maternity leave, and unemployment and pension benefits.

Vilakazi dismissed reports that Sadwu members had threatened non-union members with death if they did not take part in the march.

“Nobody was forced to take part in the march and we have received no reports of intimidation. We have been inundated with calls from employers who have threatened some members with dismissal should they take part in marches in future.”
Reports on unions
inadequate at best

From Ebrahim Patel,
National Education Secretary, SA Clothing and Textile Workers' Union (Salt River):

The Cape Times carried a one-paragraph report on July 17, announcing the granting of municipal and magisterial permission for the human chain demonstration and a four-paragraph report on July 18, setting out employer concerns about the human chain.

Your newspaper has failed to carry any articles setting out the reasons for this demonstration, as conveyed in the Press releases issued by our office.

More seriously, the Cape Times has failed to seek the trade union view on employer concerns about the human chain and has accordingly reflected only one view on the matter.

We write to you, though, not merely because of limited coverage of our activities but because we have noticed a pattern of distorted or limited coverage of trade union activities.

Wide coverage is given to strikes, and particularly violence and arrests during strikes — the media then reflects as news only such activities, and in consequence the public view of trade unions is one of strikes, disruption and violence.

Trade unions however, engage in a wide range of activities ignored by the newspapers.

One such activity is the campaign to draft a charter of workers' rights. The campaign, coordinated by CoSamtu, seeks to determine from workers the rights which they wish to include in the laws and constitution of a post-apartheid South Africa.

Such rights will include organisational rights (to belong to trade unions, strike, picket, bargain with employers), industrial democratic rights (partake in the management of enterprise, joint appointment of judges to industrial courts) and the right to trade union independence (from the state, political parties and employers).

That one million organised workers (Cosatu's membership) are involved in such a major and important activity is newsworthy.

That Cape Town's biggest union, representing 68,000 workers locally, at 300 Cape Town factories, plans to hold a human chain to show worker support for the charter of workers' rights, is newsworthy.

Surely the Cape Times ought to have given more coverage to the planned protest?

When writing to the Editor please be brief, double-space, use only one side of the sheet, sign your name and give your full address. Letters are liable to be shortened and edited.
Clothing union to spotlight 'new South Africa' at national congress

By SHARON SOROUR
Labour Reporter

LABOUR law, trade union independence and political policy in the "new South Africa" will come under the spotlight at the second national congress of the South African Clothing and Textile Workers' Union at the weekend.

Union national media officer Mr Ronald Bernickow said about 700 delegates from union branches throughout the country, as well as South African and international guests, would attend the congress in Durban.

"Our theme - Restructuring the Future - reflects the tremendous growth of the organisation since its formation in September last year as well as the need to restructure the national union to accommodate this growth".

Membership had grown from 185 000 when the union was formed to more than 200 000. Most recruits came from the homelands.

Speakers from the African National Congress, Cosatu and the American Amalgamated Clothing and Textile Workers' Union would address the two-day congress during an open session.

"Resolutions on the agenda include a workers' charter, political policy, the ANC's constitutional guidelines and labour law in the new South Africa."
Attention is drawn to the following requirements of section 4 of the Act

(a) The representatively of any trade union which objects to the application shall in terms of subsection (4) be determined on the facts as they existed at the date on which the application was lodged and, as far as membership is concerned, only members who were in good standing in terms of section 1 (2) of the Act as at the aforesaid date shall be taken into consideration.

(b) The procedure laid down in subsection (2) must be followed in connection with any objection lodged.

D. W. JAMES,
Industrial Registrar.
(27 July 1990)

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KENNISGEWING 604 VAN 1990
DEPARTEMENT VAN VERVOER
WET OP LUGDIENSTE, 1949
(WET No. 51 VAN 1949), SOOS GEWYSIG

Hierby word ingevolge die bepaling van artikel 5 (a) en (b) van Wet No. 51 van 1949 en regulasie 5 van die Regulasies vir Burgerlugdiens, 1964, vir algemene inligting bekendgemaak dat die Nasionale Vervoerkommissie die aansoek waarvan besonderhede in die Bylae hieronder verskyn, sal aanhoor.

Vertoe ingevolge artikel 6 (1) van Wet No. 51 van 1949 ter ondersteuning of bestryding van 'n aansoek moet die Direkteur-generaal Vervoer (Direktoriaat Burgerlugvaart), Privaatsak X193, Pretoria, 0001, en die aansoeker binne 21 dae na die datum van publikasie hiervan bereik en daarin moet gemeld word of die persoon of persone wat aldus vertoe is, van plan is om die verrigtings te wees of om daar verteenwoordigdig te wees.

Die Kommissie sal reel dat kennis van die datum, tyd en plek van die verrigtings skrifletter gegee word aan die aansoeker en al die persone wat aldus vertoe gery het en wat verlang om aldus verteenwoordig dig of teenwoordig te wees.

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NOTICE 604 OF 1990
DEPARTMENT OF TRANSPORT
AIR SERVICES ACT, 1949
(Act No. 51 of 1949), as Amended

Pursuant to the provisions of section 5 (a) and (b) of Act No. 51 of 1949 and regulation 5 of the Civil Air Services Regulations, 1964, it is hereby notified for general information that the applications, details of which appear in the Schedules hereto, will be heard by the National Transport Commission.

Representations in accordance with section 6 (1) of Act No. 51 of 1949 in support of, or in opposition to, an application, should reach the Director-General Transport (Directorate Civil Aviation), Private Bag X193, Pretoria, 0001, and the applicant within 21 days of the date of publication thereof stating whether the party or parties making such representations intend to be present or represented at the hearing.

The Commission will cause notice of the time, date and place of the hearing to be given in writing to the applicant and all parties who have made representations as aforesaid and who desire to be present or represented at the hearing.

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SCHEDULE A
SCHEDULE OF APPLICATIONS FOR THE GRANT OF LICENCES

(A) Name and address of applicant. (B) Name under which the air service is to be operated. (C) Particulars of air service. (i) Area to be served. (ii) Route(s) to be served. (iii) Base(s). (iv) Types and classes of traffic to be conveyed. (v) Frequency and time tables to which the service will be operated. (vi) Types of training to be provided. (vii) Particulars and description of types of work to be undertaken. (viii) Tariff of charges. (D) Aircraft to be used.
Withdrawal of the rebate facilities in respect of:

Woven fabrics of cotton, for the manufacture of handkerchiefs (items 311.18/52 08/01 00; 311 18/52 09/01 00; 311 18/52 10/01 00; 311 18/52.11/01 00 and 311.18/52.12/01.00).

[AFT Ref. T5/2/11/9/1 (900180)]

Applicant:

Board of Trade and Industry, Private Bag X753, Pretoria, 0001.

List 26/90 was published under General Notice 592 of 20 July 1990.
(27 July 1990)

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Kennisgewing 603 van 1990

Departement van mannekrag

Wet op arbeidsverhoudinge, 1956

Aansoek om registrasie van 'n vakvereniging

Ek, David William James, Nywerheidsregistrateur, maak ingevolge artikel 4 (2) van die Wet op Arbeidsverhoudinge, 1956, hierby bekend dat 'n aansoek om registrasie as 'n vakvereniging ontvang is van die Natal Association of Employees of Black Local Authorities. Besonderhede van die aansoek word in onderstaande tabel verstreke.

Enige geregistreerde vakvereniging wat teen die aansoek beswaar maak, word versoek om binne een maand na die datum van publikasie van hierdie kennisgewing sy beswaar skriflik by my in te dien, p/a die Departement van Mannekrag, Mannekraggebou 123A, Schoemanstraat 215, Pretoria (posadres Privaatsak X117, Pretoria, 0001).

Tabel

<table>
<thead>
<tr>
<th>Naam van vakvereniging:</th>
<th>Natal Association of Employees of Black Local Authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Datum waarop aansoek ingediend is:</td>
<td>2 Mei 1990</td>
</tr>
<tr>
<td>Belange en gebied ten opsigte waarvan aansoek gedaan word:</td>
<td>Alle persone in diens van 'n Swart plaaslike overheid in die landboudistrikte Dundee, Durban, Estcourt, Glencoe, Inanda, Klipriver, Lion's River, Lower Tugela, Moorriver, Mount Currie, Mtonjaneni, Paulpietersburg, Pietermaritzburg, Pinetown, Umvoti, Umzinto en Vryheid.</td>
</tr>
<tr>
<td>Posadres van applikant:</td>
<td>Posbus 32330, Mbeni, 4060</td>
</tr>
<tr>
<td>Kantooradres van applikant:</td>
<td>Zigastraat, Sibongile, Township Dundee, 3000</td>
</tr>
</tbody>
</table>

---

Notice 603 of 1990

Department of Manpower

Labour Relations Act, 1956

Application for registration of a trade union

I, David William James, Industrial Registrar, do hereby, in terms of section 4 (2) of the Labour Relations Act, 1956, give notice that an application for registration as a trade union has been received from the Natal Association of Employees of Black Local Authorities. Particulars of the application are reflected in the subjoined table.

Any registered trade union which objects to the application is invited to lodge its objection in writing with me, c/o the Department of Manpower, 123A Manpower Building, 215 Schoeman Street, Pretoria (postal address: Private Bag X117, Pretoria, 0001), within one month of the date of publication of this notice.

Table

<table>
<thead>
<tr>
<th>Name of trade union:</th>
<th>Natal Association of Employees of Black Local Authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date on which application was lodged</td>
<td>2 May 1990</td>
</tr>
<tr>
<td>Interests and area in respect of which application is made:</td>
<td>All persons employed by a Black local authority in the Magisterial Districts of Dundee, Durban, Estcourt Glencoe, Inanda, Klip River, Lion's River, Lower Tugela, Mooli River, Mount Currie, Mtonjaneni, Paulpietersburg, Pietermaritzburg, Pinetown, Umvoti, Umzinto and Vryheid.</td>
</tr>
</tbody>
</table>

For the purposes hereof "Black local authority" means a local authority as defined in the Black Local Authorities Act, 1982.

Postal address of applicant: P.O Box 32330, Mbeni, 4060.

Office address of applicant: Ziga Street, Sibongile, Township Dundee, 3000.
### Notice 582 of 1990
**South African Reserve Bank**

**Statement of Assets and Liabilities on the 30th day of June 1990**

<table>
<thead>
<tr>
<th>Liabilities</th>
<th>Assets</th>
<th>R</th>
</tr>
</thead>
<tbody>
<tr>
<td>Share Capital</td>
<td>Gold</td>
<td>2 871 395 015.46</td>
</tr>
<tr>
<td>Reserve Fund</td>
<td>Foreign assets</td>
<td>2 287 461 753.55</td>
</tr>
<tr>
<td>Notes in circulation</td>
<td>Total gold and foreign assets</td>
<td>5 158 856 769.01</td>
</tr>
<tr>
<td>Deposits</td>
<td>Domestic assets</td>
<td>3 192 100 000.00</td>
</tr>
<tr>
<td>Government</td>
<td>Discounted bills</td>
<td></td>
</tr>
<tr>
<td>Provincial administrations</td>
<td>Loans and advances</td>
<td></td>
</tr>
<tr>
<td>Banks and building societies</td>
<td>Government</td>
<td>2 305 156 739.16</td>
</tr>
<tr>
<td>Other...</td>
<td>Other</td>
<td></td>
</tr>
<tr>
<td>Other liabilities</td>
<td>Securities</td>
<td>623 430 353.85</td>
</tr>
<tr>
<td></td>
<td>Government</td>
<td>1 122 983 055.50</td>
</tr>
<tr>
<td></td>
<td>Other</td>
<td>15 734 223 342.26</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>R 28 136 752 260.79</strong></td>
<td><strong>R 28 136 752 260.79</strong></td>
<td></td>
</tr>
</tbody>
</table>

The gold reserves as at 30 June 1990 were valued at R841.26 per fine ounce, compared with the valuation price of R875.09 per fine ounce as at 31 May 1990.

C J Swanepeel, General Manager

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### Notice 583 of 1990
**Department of Manpower**

**Labour Relations Act, 1956**

**Application for Registration of a Trade Union**

I, David William James, Industrial Registrar, do hereby, in terms of section 4 (2) of the Labour Relations Act, 1956, give notice that an application for registration as a trade union has been received from the Scottburgh Municipal Employees Association. Particulars of the application are reflected in the subjoined table.

Any registered trade union which objects to the application is invited to lodge its objection in writing with me, at the Department of Manpower, 123A Manpower Building, 215 Schoeman Street, Pretoria (postal address: Private Bag X117, Pretoria, 0001), within one month of the date of publication of this notice.

**Table**

**Name of trade union:** Scottburgh Municipal Employees Association.

**Date on which application was lodged:** 16 May 1990.

**Interests and area in respect of which application is made:** All employees employed in the Local Authority Undertaking as undertaken by the Municipality of Scottburgh in the Magisterial District of Umzinto.

"Local Authority Undertaking" means the undertaking in which employers and their employees are associated for instituting, continuing and finishing any act, scheme or activity which is undertaken by a local authority.

"Local authority" shall have the same meaning as that assigned to it in section 1 of the Labour Relations Act, 1956.

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### Kennisgewing 583 van 1990
**Departement van Mannekrag**

**Wet op Arbeidsverhoudinge, 1956**

**Aansoek om Registrasie van 'n Vakvereniging**

Ek, David William James, Nywerheidsregistrateur, maak ingevolge artikel 4 (2) van die Wet op Arbeidsverhoudinge, 1956, hierby bekend dat 'n aansoek om registrasie as 'n vakvereniging ontvang is van die Scottburgh Municipal Employees Association. Besonderhede van die aansoek word in onderstaande tabel verstreken.

Enige geregistreerde vakvereniging wat teen die aansoek beswaar maak, word versoek om binne een maand na die datum van publikasie van hierdie kennisgewing sy beswaar skriflik by my in te dien, p/a die Departement van Mannekrag, Mannekraggebou 123A, Schoemanstraat 215, Pretoria (posadres: Privaatsak X117, Pretoria, 0001).

**Tabel**

**Naam van vakvereniging:** Scottburgh Municipal Employees Association.

**Datum waarop aansoek ingediend is:** 16 Mei 1990

**Belange en gebied ten opsigte waarvan aansoek gedaan word:** Alle werknemers in diens in die Plaaslike Owerheidsonderneming soos onderneem deur die Munisipaliteit van Scottburgh in die landdrosdistrik Umzinto

"Plaaslike Owerheidsonderneming" beteken die onderneming waarm aanneker en hul werknemers met mekaar geassosieer is vir die instelling, voortsetting en afhandeling van enige handeling, skema of aktiviteit wat deur 'n plaaslike ouwerheid onderneem word.

"Plaaslike ouwerheid" het dieselfde betekenis as wat daaraan toegeskien is by artikel 1 van die Wet op Arbeidsverhoudinge, 1956.
Kantooradres van applikant: Alphagebouw 13, Bullion Boulevard, Richardsbaai.

Die aandag word gevestig op onderstaande vericistes van artikel 4 en 7 van die Wet.

(a) Die mate waarin 'n beswaarmakende vakvereniging vertoonwoordigend is, word ingevolge artikel 4 (4), soos toegepas by artikel 7 (5), bepaal volgens die feste sosse hulle bestaan het op die datum waarop die aansoek ingediend is, en wat die lidmaatskap betref, word alleen lede wat ingevolge artikel 1 (2) van die Wet op voormelde datum volwaardige lede was, in aanmerking geneem.

(b) Die prosedure voorgekryf by artikel 4 (2) moet gevolg word in verband met 'n beswaar wat ingediend word.

D. W. JAMES,
Nywerheidsregistrator.
(6 Julie 1990)

KENNISGEWING 551 VAN 1990

DEPARTEMENT VAN MANNEKRAG

WET OP ARBEIDSVERHOUDINGE, 1956

AANSOEK OM VERANDERING VAN DIE REGISTRASIEBESTEK VAN 'N VAKVERENIGING

Ek David William James, Nywerheidsregistrator, maak ingevolge artikel 4 (2) soos toegepas by artikel 7 (5) van die Wet op Arbeidsverhoudinge, 1956, hierby bekend dat 'n aansoek om die verandering van sy registrasiebestek ontvang is van die Catering Employees' Union Besonderheede van die aansoek word in onderstaande tabel verstreken.

Enige geregistreerde vakvereniging wat teen die aansoek beswar maak, word versoek om binne 'n maand na die datum van publikasie van hierdie kennisgewing sy beswar skriflik by my in te dien, p/a die Departement van Mannekrag, Mannekraggebou 123A, Schoemanstraat 215, Pretoria (posadres: Praatbaak X117, Pretoria, 0001).

TABEL

Naam van vakvereniging: Catering Employees' Union.

Datum waarop aansoek ingediend is: 11 Desember 1989.


“Spysiersbedryf”, sonder om emgroewe die gewone betekenis van die uitdrukking to beperk, beteken die bedryf waarin werkgeewers en hul werknemers met mekaar geassosieer is met die doel om maaltjie en/of verversings - hetsy in vloei- ofvorm van andersings - vanuit 'n bedryfsmruing te verskaf en/of te lewer, en dit omvat die verskaffing van alkoholiese verversings waar dit met maaltjie en/of verversings verskaf word, en dit omvat voorts alle werksaamhede wat daarmee ge- paard gaan. Met dien verstande dat dit NIE die volgende omvat NIE:

(a) Akkommodasiebedryfsmruting en losses-

hurse,

(b) die verskaffing van alkoholiese verversings in kroes en hotelle; en

(c) die verkoop van goedere in dieselfde onver-

anderde staat as wat dit gekoop is.

Office address of applicant: 13 Alpha Building, Bullion Boulevard, Richards Bay.

Attention is drawn to the following requirements of sections 4 and 7 of the Act.

(a) The representativeness of any trade union which objects to the application shall in terms of section 4 (4) as applied by section 7 (5) be determined on the facts as they existed at the date on which the application was lodged and, as far as membership is concerned, only members who were in good standing in terms of section 1 (2) of the Act as at the aforesaid date shall be taken into consideration.

(b) The procedure laid down in section 4 (2) must be followed in connection with any objection lodged.

D. W. JAMES,
Industrial Registrar.

NOTICE 551 OF 1990

DEPARTMENT OF MANPOWER

LABOUR RELATIONS ACT, 1956

APPLICATION FOR VARIATION OF SCOPE OF REGISTRATION OF TRADE UNION

I, David William James, Industrial Registrar, do hereby, in terms of section 4 (2) as applied by section 7 (5) of the Labour Relations Act, 1956, give notice that an application for the variation of its scope of registration has been received from the Catering Employees' Union. Particulars of the application are reflected in the subjoined table.

Any registered trade union which objects to the application is invited to lodge its objection in writing with me, c/o the Department of Manpower, 123A Manpower Building, 215 Schoeman Street, Pretoria (postal address: Private Bag X117, Pretoria, 0001), within one month of the date of publication of this notice.

TABLE

Name of trade union: Catering Employees' Union.

Date on which application was lodged: 11 December 1989.

Interests and area in respect of which application is made: White, Coloured and Asian employees employed in the Catering Trade in the Magisterial Districts of Alberton, Benoni, Boksburg, Brakpan, Germiston, Johannesburg, Kempton Park, Krugersdorp, Randburg, Randfontein, Rooipoort, Springs and Westonaria.

“Catering Trade”, without in any way limiting the ordinary meaning of the expression, means the trade in which employers and their employees are associated for the purpose of providing and/or supplying meals and/or refreshments — whether liquid or otherwise — from any establishment, and includes the provision of alcoholic refreshments where provided with meals and/or refreshments, and further includes all operations incidental thereto.

Provided that it does NOT include:

(a) accommodation establishments and boarding houses,

(b) the provision of alcoholic refreshments in bars and hotels, and

(c) the sale of goods in the same unaltered states as bought.
KENNISGEWING 549 VAN 1990
ADMINISTRASIE: VOLKSRAAD
DEPARTEMENT VAN LANDBOUWONTIKKELING
KENNISGEWING VAN VERGADERING VAN SKULDISERS KRAFTENS ARTIKEL 22 (1) VAN DIE WET OP LANDBOUKREDIET, 1966
Hierby word 'n vergadering van ondergenoemde applikant en sy skuldigers op die plek en datum hieronder genoem, belê, met die doel om skuldigers in staat te stel om hul vorderings teen die applikant te bewys en 'n skikkingvoorstel van die Landboukredietraad te oorweeg.
J. H. RADEMEYER,
Direkteur: Direktoraat Finansiele Bystand,
Departement van Landbou-ontwikkeling.

<table>
<thead>
<tr>
<th>Aansoek van</th>
<th>Plek van byeenkoms</th>
<th>Datum en tyd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application by</td>
<td>Place of meeting</td>
<td>Date and time</td>
</tr>
<tr>
<td>Joseph William Ganter van die plaas/of the farm</td>
<td>Kantoor van die Landdros/Magistrate’s Office</td>
<td>22 Augustus/August 1990 om/ at</td>
</tr>
<tr>
<td>Klipscheur, Posbus/P O Box 1618, Bethlehem, 9700</td>
<td>Beulheim</td>
<td>10 (00)</td>
</tr>
</tbody>
</table>

(6 Julie 1990)/(6 July 1990)

KENNISGEWING 550 VAN 1990
DEPARTEMENT VAN MANNEKRAAG
WET OP ARBEIDSVERHOUDINGE, 1956
AANSOEK OM VERANDERING VAN DIE REGISTRASIEBESTEK VAN 'N VAKVERENIGING
Ek, David William James, Nywerheidsregistrateur, maak ingevolge artikel 4 (2) soos toegepas by artikel 7 (5) van die Wet op Arbeidsverhoudinge, 1956, hierby bekend dat 'n aansoek om die verandering van sy registrasiebestek ontvang is van die National Industrial and Commercial Workers' Union. Besonderhede van die aansoek word in onderstaande tabel verstreken.

Enige geregisteerde vakvereniging wat teen die aansoek bewaar maak, word versoek om binne een maand na die datum van publikasie van hierdie kennisgegawe sy bewaar skriftelik by my in te dien, p/a die Departement van Mannekrag, Mannekraggebou 123A, Schoemanstraat 215, Pretoria (posadres: Privaatsak X117, Pretoria, 0001).

TABEL

<table>
<thead>
<tr>
<th>Naam van vakvereniging, National Industrial and Commercial Workers’ Union</th>
<th>Datum waarop aansoek ingediend is:</th>
<th>Belange en gebied ten opsigte van aansoek gedaan word:</th>
<th>Alle persone in diens in die Natuurweselwerkingsnywerheid in die landrodsdistrk Habaswa</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Maldaar 90</td>
<td>Alle persone in diens in die Natuurweselwerkingsnywerheid in die landrodsdistrk Habaswa.</td>
<td>Vir die doeleindes hiervan beteken &quot;Natuurweselwerkingsnywerheid&quot;, sonder om die gewone betekens van die uitdrukking enigerwys te beperk, die nywerheid waarin werkgevers en hul werknemers met mekaar geassosieer is in bedryfsonings vir die verwerking van natuurvesels afkomstig van die suusplantaat, en omvat dit alle werksaamhede wat daarmee geïndise of daaruit voortspruit.</td>
</tr>
<tr>
<td></td>
<td>Maldaar 90</td>
<td>Alle persone in diens in die Natuurweselwerkingsnywerheid in die landrodsdistrk Habaswa.</td>
<td>Posadres van applikant: Posbus 38, Richardsbaai, 3900.</td>
</tr>
</tbody>
</table>

NOTICE 550 OF 1990
DEPARTMENT OF MANPOWER
LABOUR RELATIONS ACT, 1956
APPLICATION FOR VARIATION OF SCOPE OF REGISTRATION OF A TRADE UNION

1. David William James, Industrial Registrar, do hereby, in terms of section 4 (2) as applied by section 7 (5) of the Labour Relations Act 1956, give notice that an application for the variation of its scope of registration has been received from the National Industrial and Commercial Workers' Union. Particulars of the application are reflected in the subjoined table.

Any registered trade union which objects to the application is invited to lodge its objection in writing with me, o/a the Department of Manpower, 123A Manpower Building, 215 Schoeman Street, Pretoria (postal address: Private Bag X117, Pretoria, 0001), within one month of the date of publication of this notice.

TABLE

Name of trade union: National Industrial and Commercial Workers’ Union.

Date of application: 1 March 1990

Interests and area in respect of which application is made. All persons employed in the Natural Fibres Processing Industry in the Magisterial District of Habaswa.

For the purposes hereof “Natural Fibres Processing Industry”, without in any way limiting the ordinary meaning of the expression, means the industry in which employers and their employees are associated in establishments for the processing of natural fibres from the sisal plant, and includes all operations incidental there to or consequent thereon.

Postal address of applicant: P.O. Box 38, Richards Bay, 3900
Behind the scenes in OK strike

“I am only surviving the strike because I am Christian. I am always praying. God is understanding. I pray and people help me.”

These are the words of Johanna (38), a single parent and a mother of two school children. She lives in Orlando East in Soweto.

Johanna (not her real name), is a cashier at OK Bazaars. Union members and the supermarket chain on Friday agreed on a wage and working conditions package, ending a seven-week labour dispute.

“I don’t think we were wrong to go on strike,” she said in an interview. “It was the only language the company could understand.”

Money

Another OK worker, Mrs Nora Tseko (34), concurred: “We have not got increases at our company without fighting for it.”

During the strike, Johanna said she had already borrowed money from a person and between R600 and R1 000 was outstanding in unpaid accounts at stores.

Her landlord had granted her a temporary reprieve from eviction, she said.

By RAPHAEL BANDA

The strikers are demanding increased wages and have accused some of the strike-hit companies of racism, what they and their comrades call the “busskap” attitude.

Most of the strikers, women and men, are blacks, historically the most disadvantaged racial group in South Africa.

They have joined trade unions in droves, looking for financially co-ordinated support committees to take over the task.

In contrast to trade unions in Europe, most unions in South Africa do not have funds to cushion strikers during stoppages.

The monthly R5 membership fees paid to the SA Commercial Catering and Allied Workers Union were mostly swallowed by legal actions during the stoppage, said negotiator Mr Jeremy Daphne.

Industrial relations consultant Stuart Pennington said workers here could not afford to run a strike fund as contributions would have to be higher.

To talk about a strike fund in South Africa is not an easy situation,” he said.

Stone said the flood of strikes experienced in the first six months of this year had increased three fold the number of man days lost within the same period in 1989.

The two labour analysts saw a direct link between the reforms introduced by President FW de Klerk and the increase in strikes.

The political change brought about as a result of De Klerk’s move to banish political parties, permit free political activity, by the Government to constrain some of the powers of the labour movement,“ Stone said.

Workers mounted an offensive until the trade union federations Cosatu and Nactu drew up an accord with the employer body Sacciea on the removal of clauses which drastically curtailed worker power.

Approach

He added sectors currently hit by strike action had been historically intransigent in their dealings with workers.

They are “historically sectors which have adopted an adversarial approach to industrial relations.

In this new political climate they are feeling the brunt of that. Strikes in these sectors have become almost an annual event.”

Conflict

It was inevitable there would be high level of conflict in labour this year,” Stone added.

Union strength has come under threat since the passage of the controversial Labour Relations Amendment Act of 1986.

It led to a three-day nationwide stayaway protest action.

The amendments clearly were an attempt by the Government to constrain some of the powers of the labour movement,“ Stone said.

Workers mounted an offensive until the trade union federations Cosatu and Nactu drew up an accord with the employer body Sacciea on the removal of clauses which drastically curtailed worker power.

Threats

However, the passage of that agreement into law has been delayed, provoking threats of labour unrest.

De Klerk stepped in to defuse the “time bomb” although relations between workers and employers remain uneasy.

Evaluation of the current strikes, Pennington said: “It’s not victory or defeat (that matters) in a strike everybody loses.”

Reforms

Unionists are saying that with the Government trying to push the pace of political reform the time to strike on economic issues has never been better.

The Government will be reluctant to use the old-style force to suppress industrial action.

There are people who won’t lend you money. Others are not throwing me out because I am on strike,” she said.

Johanna is one of the thousands of workers who had walked off their jobs in recent weeks in a showdown with supermarket chains OK Bazaars and Checkers, hotel giant Southern Sun, the Frame Group and liquor companies, to mention some.

Thousands more in other industries are also on strike.

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Bureaucrats push demand for inclusion in Act to Cabinet level

PRETORIA — Pressure from public service staff to have government workers brought within the Labour Relations Act’s ambit has forced the issue to Cabinet level, Public Servants’ Association (PSA) GM Hans Oliver said yesterday.

It was on the agenda of special Cabinet meetings on Monday and yesterday at a secret venue outside Pretoria.

Oliver said public servants should no longer be denied rights set out in the Labour Relations Act.

He said there were two possibilities supplementing the Public Service Act to provide for the instruments and mechanisms in the Labour Relations Act, or the application of the Act to public servants.

During the protest that followed the 10% non-pensionable pay hike from April, many members demanded the right to strike or go slow in support of demands for improved service conditions. Oliver said the logical solution was to bring the public service work corps under the umbrella of labour relations legislation.

Under existing conditions the public service staff associations had little muscle when it came to pay demands and negotiations. They were at the mercy of government. The PSA realised that essential services could not be disrupted by strikes, but at the same time they needed the bargaining rights accorded all other workers in terms of the Labour Relations Act.

The PSA also wanted the right to go to arbitration when negotiations deadlocked.

“The bottom line is we have no effective powers to force the employer to compromise with us on our demands,” Oliver said.

The PSA welcomed Cabinet’s decision to consider improved labour legislation for government workers. However, the PSA was not asked to submit inputs as a background to the discussions. Oliver said the PSA could not turn a blind eye to strong indications that the Labour Relations Act was to be reviewed and possibly amended to include public servants.
Public Servants - plea

PUBLIC servants should no longer be denied the rights other employees in the private sector enjoy in terms of the Labour Relations Act, the general manager of the Public Servants' Association, Mr Hans Olivier, said yesterday.

Responding to reports that the Cabinet might discuss the unionising of public servants during their "planning session" this week, Olivier said two possibilities existed for this purpose, namely, "Supplementing the Public Service Act to make provision for the instruments and mechanisms provided for in the Labour Relations Act, or the application of this act to all public servants."

"The PSA is at present considering the matter carefully," he said.

Olivier said the logical solution could possibly be to make the Labour Relations Act accessible to all public servants "in view of the fact that it is an easier avenue for the solution of the present problems."

"The application of the Act to accommodate public servants would also alleviate the position of officials rendering essential services in which case they would in terms of the Act be excluded from the right to strike and be compelled to participate in compulsory bargaining with the employer," he said.
WET OP ARBEIDSVERHOUDINGE, 1956

MEUBELNYWERHEID, OOSTELIKE KAAPPROVINSIE.—HERNUWING VAN HOOFOOORENKOMS


D. VAN DER WALT,
Direkteur: Arbeidsverhoudinge.

WET OP ARBEIDSVERHOUDINGE, 1956

YSTERS-, STAAF-, INGENIEURS- EN METALLURGIESE NYWERHEID.—WYSIGING VAN REGISTRASIE- EN ADMINISTRASIEFONDS-OORENKOMS

Ek, Eli van der Merwe Louw, Minister van Mannekrag, verklaar hierby—

(a) kragtens artikel 48 (1) (a) van die Wet op Arbeidsverhoudinge, 1956, dat die bepalings van die Ooreenkoms (hierdie die Wysigingsooreenkoms genoem) wat in die Bylae hiervan verskyn en betrekking het op die Onderneming, Nywerheid, Bedryf of Beroep in die opskrif by hierdie kennisgewing vermeld, met ingang van die eerste Maandag na die datum van publikasie van hierdie kennisgewing en vir die tydperk wat op 31 Maart 1995 eindig, bindend is vir die werkgewersorganisasies en die vakverenighings wat die Wysigingsooreenkoms aangegaan het en vir die werkgewers en werknermes wat lede van genoemde organisasies of verenigings is; en

(b) kragtens artikel 48 (1) (b) van genoemde Wet, dat die bepalings van die Wysigingsooreenkoms, uitgesonderd die vervat in klousules 1 (1) (b) en 2, met ingang van die eerste Maandag na die datum van publikasie van hierdie kennisgewing en vir die tydperk wat op 31 Maart 1995 eindig, bindend is vir alle ander werkgewers en werknermes as dié genoem in paragraaf (a) van hierdie kennisgewing wat betrokke is by of in diens is in genoemde Onderneming, Nywerheid, Bedryf of Beroep in die gebiede in klousule 1 van die Wysigingsooreenkoms gespesifiseer

E. VAN DER MERWE LOUV,
Minister van Mannekrag.

LABOUR RELATIONS ACT, 1956

FURNITURE MANUFACTURING INDUSTRY, EASTERN CAPE PROVINCE.—RENEWAL OF MAIN AGREEMENT


D. VAN DER WALT,
Director: Labour Relations

LABOUR RELATIONS ACT, 1956

IRON-, STEEL-, ENGINEERING AND METALLURGICAL INDUSTRY.—AMENDMENT OF REGISTRATION AND ADMINISTRATION EXPENSES AGREEMENT

I, Eli van der Merwe Louw, Minister of Manpower, hereby—

(a) in terms of section 48 (1) (a) of the Labour Relations Act, 1956, declare that the provisions of the Agreement (hereinafter referred to as the Amending Agreement) which appears in the Schedule hereto and which relates to the Undertaking, Industry, Trade or Occupation referred to in the heading to this notice, shall be binding, with effect from the first Monday after the date of publication of this notice and for the period ending 31 March 1995, upon the employers’ organisations and the trade unions which entered into the Amending Agreement and upon the employers and employees who are members of the said organisations or unions; and

(b) in terms of section 48 (1) (b) of the said Act, declare that the provisions of the Amending Agreement, excluding those contained in clauses 1 (1) (b) and 2, shall be binding, with effect from the first Monday after the date of publication of this notice and for the period ending 31 March 1995, upon all employers and employees, other than those referred to in paragraph (a) of this notice, who are engaged or employed in the said Undertaking, Industry, Trade or Occupation in the areas specified in clause 1 of the Amending Agreement

E. VAN DER MERWE LOUV,
Minister of Manpower.
The highest pay rises in 1990

Got the highest

Public sector unions

A new bargaining chip
Critical LRA talks resume today

CRITICAL talks on the Labour Relations Act resume in Johannesburg today between unions, employers and government, with Cosatu threatening a stayaway from October 8 to 10 as the price of deadlock.

And it was disclosed yesterday that a special Cabinet committee, chaired by Administration and Economic Co-ordination Minister Wim de Villiers, had been appointed to examine union demands regarding bargaining rights for public sector employees.

Today's talks occur at the third gathering of the working group which was established at a meeting between the parties and President F W de Klerk earlier this year.

The group's task is to resolve the conflict which arose out of government's failure to translate into legislation this year those aspects of the Coasa/Nactu/Saccola (CNS) accord on amendments to the Act which were supported by the National Manpower Committee (NMC).

Union spokesman Marcel Golding says:

LRA talks

the unions have demanded further commitments from government early next year in addition to passage of the NMC draft Bill and changes to the Labour Appeal Court structure.

It is these commitments the Cabinet committee is to examine.

The unions have also proposed to Saccola that certain measures be taken to encourage the observing of the terms of the CNS accord by employers in the interim. These issues will form the bulk of today's agenda.

The union is demanding of government that it confirm its belief in full collective bargaining rights for the public sector and, pending legislation, that it guarantee basic organising rights.

It also wants a member of the Commission for Administration to be appointed as a person with whom unions can discuss complaints of alleged contraventions of these rights, and a system of compulsory arbitration in cases of dispute.

Manpower Department sources said yesterday the unions were giving the state too little time to consider complex issues.

The unions also want Saccola to agree to the establishment of a complaints board with advisory powers to examine areas of non-compliance by employers with the CNS accord.

Should these issues not be resolved, Cosatu has decided its threatened stayaway would be preceded by a month of national and regional conferences and countrywide marches on September 29.
600 fight for right to strike

By Brendan Templeton

About 600 workers and their employers in the small Northern Transvaal town of Brits are engaged in a struggle which could prove crucial to the development of industrial relations in South Africa.

At stake is the workers' right to strike over dismissals.

The telephone and optical fibre cable manufacturing company, ATC, applied for and was granted an interdict in the Industrial Court preventing its workers from embarking on strike action after the dismissal of three shop stewards.

The National Metalworkers Union (Numsa) said a direct effect of the court ruling will be to make all strikes over dismissals illegal.

This undermined the very intentions of the Labour Relations Act, Numsa said.

Despite the interdict, workers embarked on their planned strike and were locked out of the company premises, a shop steward said.

ATC said in a statement it viewed the matter as a dispute of right which should be resolved through arbitration: "The decision to strike where such a dispute resolution mechanism has been offered is considered unfair and can only cause harm in the relationship between the company and its employees," it said.

Numsa general secretary Moses Mayekiso said the dismissals were "selective" and an "attempt to rob the workers of their leadership."

The union's legal officer, Ruth Edmonds said the interdict was not served as a rule nisi which would have given the union a chance to challenge it.

It was up to the company to follow it up.
"Progress' made in LRA talks"
Govt begins drafting new set of LRA amendments

THE Manpower Department has begun drafting a new set of amendments to the Labour Relations Act which will replace the draft proposed in May by the National Manpower Commission (NMC), director general Joel Fourie confirmed yesterday.

The new Bill is to be presented soon to the working committee charged with finalising the amendments. The committee consists of the parties to the Cosatu/Nactu/Saccola (CNS) accord, the NMC and the department.

The working committee is awaiting the new Bill before further progress can be made.

It is also awaiting a Cabinet decision on union proposals on immediate base organising rights for public sector employees and their unions, and their eventual inclusion under the terms of the Act.

Government sources said yesterday the Cabinet committee appointed last week to investigate these proposals — chaired by Administration and Economic Co-ordination Minister Wim de Villiers — was expected to complete its work within a week and the Cabinet was likely to make its decisions at its meeting next Wednesday.

As far as the new Bill was concerned, Fourie said it was based on the latest NMC report drawn up after additional public hearings on the original NMC Bill. However, the NMC report contained certain (undisclosed) problems and the departmental draft had to take these into account.

The CNS parties earlier this year attempted unsuccessfully to convince government to expedite the passage of the NMC's draft Bill. It was understood they were now uneasy about the latest developments, but were awaiting the final product before commenting in detail.

Fourie said his goal was to ensure "the greatest possible consensus" among all interested parties.

Asked whether he believed the new Bill would assist in defusing the tensions surrounding the LRA dispute — including the threat of a work stayaway in October — Fourie said if it was read in an intellectual rather than an emotional light he could envisage no serious objections.
Massive stayaway in October?

By CHIARA CARTER
A THREE-DAY national stayaway is planned for October if negotiations between employers, unions and the government over the controversial Labour Relations Act (LRA) do not produce satisfactory results.

Cosatu spokesperson Mr Neil Coleman said the federation had agreed in principle to stayaway action from October 8 to 10.

Defiance
A final decision on whether to proceed with a stayaway will be taken at the next Cosatu campaign conference in September.

Cosatu renewed its defiance campaign in connection with the LRA after the government failed to legislate an accord reached between unions and the employer body Saccola earlier this year.

Also to be discussed at the bargaining conference is a proposal for countrywide marches at the end of September.

The federation wants the state to legislate the accord and then introduce legislation which will extend the labour law to cover all workers, recognise public sector unions and revamp the industrial courts.

A working committee is examining changes to the LRA.

The conference will also discuss the workers' charter campaign, a culmination of attempts to place workers' demands on the national negotiating table.

Minimum wage
A workers' charter conference is scheduled to take place in November.

Another campaign which Cosatu seems set to take up is the demand for a national minimum wage.

Cosatu's living wage committee has recommended a minimum salary of R700 for all workers, with the possible exception of domestic workers.

The federation is still committed to the battle for a living wage — at present somewhere between R1 100 and R1 500.
Deneys Reitz argues for final order against union

CONTROVERSY surrounding submissions to Manpower Minister Elfouhloy by attorneys Deneys Reitz on the Saccola-Nactu-Cosatu Labour Relations Act accord was being used by the South African Commercial Catering and Allied Workers' Union (Saccawu) to justify unlawful conduct against the law firm, it was argued in the Rand Supreme Court yesterday.

Counsel for Deneys Reitz, C Plewman SC, made this submission before Mr Justice Flemming in seeking a final order restraining the union from conducting a protest campaign against the firm and picketing its Sandton office.

Deneys Reitz obtained an interim interdict against Saccawu on July 17 following a resolution passed by the union at its annual congress to conduct a campaign to “pressurise and embarrass” the firm which represented management in the recent OK and Southern Sun/Holiday Inns strikes.

The resolution followed the union's claims that Deneys Reitz was involved in “union bashing” and was responsible for disrupting established collective bargaining processes.

In applying for an interim interdict last month, Deneys Reitz submitted that the planned union action was an unlawful attack on the independence and integrity of the firm and legal profession as a whole.

The firm also claimed the proposed action was an attempt to interfere with the administration of justice.

Undertaking

In opposing the granting of a final order, Saccawu argued that its terms were too wide and would curtail the union's rights to legitimately criticise Deneys Reitz on matters outside its professional activities.

The union has tendered an undertaking not to interfere with the firm's professional activities while reserving the right to publicly criticise its conduct outside the sphere of its legal practice.

Saccawu has also said it will consent to an order interdicting it from picketing in relation to the firm's practice and engaging in activities which impeded its attorneys' professional activities.

Deneys Reitz has not accepted either and has asked for a final interdict in the terms of the order originally sought.

Counsel for Saccawu, J Gauntlet SC, argued that the union was entitled to “pressure and embarrass” Deneys Reitz within the law's limits.

An example of where this would be permissible, Gauntlet said, was public criticism of the submissions made to Elfouhloy by Deneys Reitz which were perceived as delaying the passing into law of the Saccola agreement.

Gauntlet said it was not unlawful and in contravention of common law to criticise lawyers advancing views on a highly contentious political, social issue.

He argued that the firm was asking for a blanket order against the union, Mr Justice Flemming reserved judgment and with the consent of both parties extended the interim order until he reached a final decision on the matter.
Public sector talks to begin

The Cabinet has instructed the Commission for Administration and the National Education Department to begin negotiations with representative parties on new arrangements for collective bargaining in the public sector.

The move — which followed talks on the Labour Relations Act between Saccola, Cosatu, Nactu and the Manpower Department — was disclosed in a statement issued jointly yesterday by Manpower Minister Edith Louw, Home Affairs and National Education Minister Gene Le Roux and Administration and Economic Co-ordination Minister Willem de Villiers.

The two union federations have demanded, in addition to translation into law of changes to the Act agreed with Saccola, immediate basic organising rights for public sector unions and the eventual inclusion of public sector employees under the Act.

Government has argued that Cosatu and Nactu's public sector unions represent a small proportion of the public service and that broader consultation is necessary.

The unions have threatened a work stayaway during October if their demands are not met. Spokesmen could not be reached for comment yesterday on the latest development.

The three Ministers said government endorsed in principle the basic rights of employers and employees in all sectors and especially the basic rights of freedom of association and collective bargaining.

They said the state as an employer would continue its commitment to fair and just conduct towards its employees while ensuring public service departments were still able to render an efficient service.
Teachers and civil servants could win trade union rights, including the right to collective bargaining, as a result of a government decision to review employment conditions of state employees.

The government intended limiting "to the minimum" its intervention in the relationship between public service departments and their employees, the Minister of National Education, Mr. Gene Louw, said in a statement.

The government last week initiated a process aimed at recognising employee rights for teaching staff and state employees.

Mr. Louw said the government had now instructed the Commission for Administration and the Department of National Education to accelerate the process.

These two bodies would liaise widely with interested parties "in order to establish, through a process of negotiation with representative parties, efficient and suitable arrangements for relations between employers and employees with the relevant sectors."
Cabinet decision a 'milestone'

OWN CORRESPONDENT

JOHANNESBURG. — Union federations Cosatu and Nactu and employer federation Sacola have welcomed the cabinet decision to endorse the tripartite agreement on labour legislation.

The cabinet decision to approve the deal reached on September 14 was announced at a media briefing on Wednesday by Manpower Minister Mr Ell Louw. He described it as "a milestone on the road to achieving internationally acceptable labour legislation".

The 18-point agreement framed as a "Minute" includes an undertaking by government to submit to Parliament this month a draft amendment Bill to the Labour Relations Act Bill, for consideration by the Joint Committee on Manpower. It also contains an in-principle commitment to bargaining rights for all workers and sets out processes to be followed in implementing this principle as regards public sector, farm and domestic workers.

In terms of the agreement, the unions are to call off the work stayaway planned for next month and will join a restructured National Manpower Commission (NMC) which will be a central part of these processes.

Cosatu said a formal decision on the agreement would be taken on October 4 at a special executive committee meeting.

Nactu's acting general-secretary Mr Cunningham Ngokana said his organisation now considered itself bound by the terms of the Minute.
Stayaway looming after government response to LRA

By DREW FORREST

A MASSIVE three-day stayaway is looming next month following an "un- satisfactory" government response to Congress of SA Trade Unions (Cosatu) demands on the Labour Relations Act.

A final decision on the stayaway, provisionally set for October 8 to October 10, is to take by 300 delegates at the key Cosatu campaigns conference in Johannesburg this weekend. Delegates will also decide on whether to launch mass marches on September 29.

The decision was deferred pending a government response to demands for interim changes to the LRA. Cosatu has demanded the enactment in the next parliamentary session of amendments based on the "Saccola accord", a separate Bill extending the Act to all workers and restructuring the Labour Appeal Court. It also wants recognition and organising rights for public sector unions.

Cosatu campaigns co-ordinator Lisa Sefiela said a satisfactory state response had not been received.

The recent government announcement that the Commission for Administration and the Department for National Education are to negotiate with representative state sector unions on a new labour dispensation for the public service falls far short of Cosatu's demands.

It is also understood that in redrafting the Bill based on the Saccola accord, the Manpower Department is seeking changes to the unfair labour practices clause. The major feature of the accord is its proposed reversion to the pre-1988 definition.

Arguing that the "joint working party" talks on the LRA, involving the state, Saccola and Cosatu/Nactu, have been unproductive, Cosatu is understood to have proposed one further meeting of the forum.

The Cosatu conference is also expected to produce recommendations on a proposal of a R700 national minimum wage, the closed shop and whether strikes should be curbed in essential services. Fierce controversy is expected over the minimum wage, which at least one major affiliate opposes.
COSFLY plans three-day stayaway on LRA

Matthew Curtin
Cosatu plans stayaway

COSATU will organise a one-day national stayaway as part of three days of mass action from October 8 to 10 to protest against government's refusal to meet its demands on amendments to the Labour Relations Act (LRA).

A Cosatu spokesman said yesterday the stayaway on October 8 would be followed by two days of factory-based action.

This action was decided upon by 300 delegates at the Cosatu Campaign Conference held in Johannesburg at the weekend.

The spokesman said the government had made no decisive moves to meet Cosatu's demands put to the LRA working committee.

The committee — consisting of representatives from the National Manpower Commission, the Manpower Department and Cosatu, Sacca and Nactu (CSN) — was commissioned by President F W de Klerk to break the deadlock which arose from the failure to promulgate aspects of the CSN accord in LRA amendments this year.

Cosatu set a 30-day deadline, now past, for government to meet its demands that the CSN accord be legislated, the Act be extended to farm and public sector workers and a more efficient labour appeal system be legislated.

The spokesman said in these circumstances the conference "had no alternative" but to sanction mass action.

He said Cosatu also saw a close link between the recent spate of township violence and government's refusal to meet its demands on the LRA, as both were attempts "to undermine democratic organisation and working class unity".

Cosatu hoped, through mass action, to put pressure on government to take effective action to end the violence.
Unions, Saccola meet govt in last-ditch attempt to settle LRA

COSATU, Saccola and Nactu (CSN) are due to meet Manpower Minister Eli Louw in Pretoria tomorrow in a last-ditch attempt to settle their differences over the Labour Relations Act before Cosatu’s planned mass mobilisation effort on the issue next month.

Confirming the planned meeting, Manpower director-general Joel Fourie said yesterday Louw had undertaken to give definitive answers to union proposals on ways to resolve the impasse.

The two union federations have demanded that the National Manpower Commission (NMC) draft Bill based on the CSN accord reached earlier this year be translated into legislation, proposed changes to the Labour Appeal Court system be introduced, public sector unions be accorded normal organising rights immediately, and that the Act eventually be amended to extend collective bargaining rights to the public service, domestic and farmworkers.

On the issue of bargaining rights for the public service, the Cabinet has already instructed the Commission for Administration and the National Education Department to negotiate with representative unions.

Fourie said Louw had in his possession a draft Bill, based on the CSN accord and the NMC proposal, to use as a basis for discussion at tomorrow’s meeting.

He will seek to reach consensus with the parties on this and the other matters and, if successful, will take joint proposals to the Cabinet for approval on September 19. It is understood the matter may also be discussed in Cabinet today.

Asked whether he thought Louw was willing to make sufficient concessions to make agreement possible, Fourie said “They have said it depends on government’s political will. It also depends on their willingness to resolve the issue.”

But, Nactu acting general secretary Cunningham Ngcukana said the unions were not optimistic Government, he said, had taken contradictory stances in the past.

He added Nactu structures had been discussing whether to join Cosatu in the planned October 8 work stoppage.

BUSINESS DAY, Wednesday

ALAN FINE
Manpower Minister Ell Louw, left, met representatives of Coasa, Necta and Saccola in Pretoria yesterday to discuss the Labour Relations Amendment Act. On the right are Saccola representative Bokhele Botha, Cosatu general secretary Joe Mbelo and NUM assistant general secretary Marcel Golding.

*Report: Page 1*

*Picture: ROYIN RYAN*
Hopes high for resolving LRA deadlock.

PRETORIA — Trade union and government sources were last night expressing cautious optimism at the prospect of soon resolving the long-standing impasse over the Labour Relations Act.

Manpower Minister Eli Louw, Consu, Nactu and employer federation Saccola representatives began meeting at 3pm in Pretoria and by evening it appeared the talks on the Act were likely to continue into the early hours of the morning, and possibly even then be adjourned.

One trade union source said during a break in proceedings that the situation was "not looking hopeless" and said it appeared there might be a satisfactory proposal from government based on the Draft Amendment Bill proposed recently by the National Manpower Commission (NMC).

Government sources agreed that there had been "quite a lot of progress" on such a draft Bill. The Bill's proposed amendments would include changes to what the unions believe are objectionable features of the unfair labour practice definition.

However, government sources added there were problems with other issues, especially the position of public servants, domestic and farm workers.

The two union federations have demanded that all such workers presently excluded from the terms of the Act be brought under its ambit.

Louw and some of his staff were planning to leave the meeting for a few hours so he could attend a meeting in his constituency. They planned to return at about 10pm.

During that period the unions and Saccola were to discuss matters just between them. This included the union demand that employers be bound by the terms of the Consu/Nactu/Saccola accord on which the NMC proposals were based.

Picture Page 3
Dispute may soon be settled

Abbey Makoe

A DISPUTE between Blackchain Stores and its former employees, who were locked out and subsequently fired last year, may be settled out of court—a few days before the Industrial Court was expected to decide on the matter.

The 84 workers took Blackchain to court after several attempts to resolve the issue proved futile. Workers were in favour of an out-of-court settlement, especially if re-instatement would be part of the deal.
Cabinet set to put its seal on LRA deal

NO LAST-MINUTE hitch is likely on Wednesday when Manpower Minister Ellis Louw would put Friday's deal on the Labour Relations Act to Cabinet, government sources said at the weekend.

The historic agreement, finalised at a 12-hour meeting that ended at 4am on Friday, must still be formally approved by Cosatu, Sacolda and Nactu (CSN) leadership structures. The deal is a product of more than two years of conflict and talk.

It includes a government undertaking that legislative amendments - based on the May CSN accord and modified by the National Manpower Commission (NMC) and the tripartite working party - will be introduced in Parliament next February.

Louw also made "certain proposals" on basic rights for workers - the public service, domestic and farm workers - not covered by the Act at present.

It is understood that, as far as 'public sector' employees are concerned, these proposals include a process for ensuring limited, interim union rights as well as a longer-term solution. Government has already instructed the Commission for Administration to begin negotiations with representative parties on labour relations in the public sector.

The union delegates undertook, in return, to recommend to their affiliates that should the Cabinet endorse these proposals, the planned anti-LRA stayaway protest scheduled for next month be cancelled.

They would also recommend that Cosatu and Nactu join a "restructured" NMC - something they have refused to do for several years.

□ To Page 2

LRA deal

This would mean that - assuming changes to the legal rights of domestic and farm workers are processed through the NMC, as is normally the case with changes to labour law - the unions, as NMC members, would be directly involved.

The third leg of the deal involves the union and employer groups agreeing to recommend to their members that, until the accord becomes law, they should act in accordance with their accord in respect of the service and notice of interdicts (the accord outlaws interdicts against lawful industrial action), time limits regarding dispute resolution (which the accord extends), and "non-reliance on the presumption position" of Section 79(3) of the Act, which imposes on unions the onus of proof that they were not responsible for damages incurred in unlawful strikes.

The proposed new legislation would also substantially change the unfair labour practice definition.

□ From Page 1

Comment: Page 8
Mercedes talks go on

EAST LONDON — Talks are continuing in East London between the management of Mercedes Benz SA and the National Union of Metalworkers of SA, a month after a small group of rebel Numsa members caused a factory shutdown. At issue are the procedure for workers wanting to take industrial action and the position of Numsa regarding the National Bargaining Forum.
PO workers challenge Bill

Workers in the Department of Posts and Telecommunications have started picketing various main post offices in the country in an effort to get the Post Office Amendment Bill scrapped.

They picketed post offices in Johannesburg and Pretoria.

In the Eastern Cape, workers are staging a sit-in and in Durban's West Street branch, a memorandum has been presented to officials.

In a statement this week, the Post Office and Telecommunications Workers Association said workers were suspicious of the Bill and viewed it as an attempt to introduce privatisation, disguised as restructuring and rationalisation.

Potwa has sent a memorandum to the Minister of Telecommunications, Dr Dawie de Villiers, demanding that the Bill be withdrawn.

The statement said workers objected to it because of the strong belief that the Bill would lead to loss of jobs, as they would no longer be covered by the Labour Relations Act for up to two years.

The statement added that the Bill sought to give equal representation between management on the one hand and the unions/staff associations on the other. Potwa believed this situation would reduce the workers' bargaining strength.

Sapa
Labour assault on status quo

CLIVE THOMPSON

Secondly, labour action is goal-oriented Shop-floor issues are usually well-defined and unions' larger social objectives are public knowledge.

Thirdly, industrial action carries an immediate price for those who invoke it. The loss of production coincides with a loss of wages, and mutual attrition induces settlement.

Fourthly, and consequently, labour action is subservient to negotiation and hence rationality. Bargaining over differences and the conclusion of agreements are defining elements of industrial relations.

Finally, both bargaining practices and strikes are amenable to legal regulation, although even good law has limitations.

Blacks have acquired industrial rights before political ones. The stealthy reformers of the P W Botha era never anticipated that unions would exert such leverage with the limited material provided by de-racialised labour statute.

But unions bear real power today. Twenty years ago the economy could have been overhauled and rerouted by the joint endeavours of govern-

ment and business alone. That option is not possible now.

If unions are not brought on-side in formulating and implementing strategies to meet the daunting economic challenges that lie ahead, they will foil any initiatives undertaken in that regard.

A market-driven economy is widely seen as the key for economic renewal. Looking past the rhetoric, the existence of strong unions is not antithetical to such an end. They have played central roles in the development of both social and liberal democracies, and are an inevitable corollary of any system that respects and promotes freedom of association.

In SA unions have demonstrated a formidable ability to organise concerted action within and across industries.

They have done so in an adversarial setting marked by divisions and

but it would be premature to call it momentous.

This process will remove a major source of industrial conflict. That will facilitate a return to industrial peace but will not in itself provide a basis for a much needed economic partnership. Labour relations require not merely repair but reconstruction.

If the sceptics on all sides are to be turned, an aggressive and imaginative strategy must be followed to forge new forms of economic cooperation between management and unions. Labour reforms should continue to lead political changes, for the groundwork is better prepared in the former area, the actors are more likely to succeed, and there is a better prospect of a salutary demonstration effect.

There is talk of reconstituting the National Manpower Commission as a truly representative tripartite body patently to play an integrative and influential role in the labour economy.

If these plans are brought to fruition, the long haul of producing order, and a new order, out of the anarchy of 1990 will have commenced.

Prof Thompson is director of UCT's Labour Law Unit and on the National Manpower Commission's legislation committee.
Cabinet likely to react soon over LRA call

By LEN MASEKO

THE Minister of Manpower is expected to announce the Cabinet's response to the demands by Cosatu, Nactu and employers that certain changes be made to the controversial Labour Relations Act as soon as possible.

The Cabinet was at its meeting yesterday expected to approve amendments proposed by a high-level delegation representing the two federations and the employers' body Saccola.

Earlier the Minister, Mr Elh Louw, had indicated he would strongly recommend that the Cabinet approve the amendments finalised at a meeting last Thursday between him and a delegation representing Nactu, Cosatu and Saccola.

Kept

Details of the LRA changes are being kept under wraps until they had been approved by the Cabinet.

A three-day "mass action" called by Cosatu for October 8, 9 and 10 now hinges on the Cabinet's decision.

The federation agreed at last Thursday's meeting to cancel the protest action, which included a stayaway on October 8, if the Government endorsed the historic agreement between the three parties.

"Cosatu and Nactu also agreed to join a restructured National Manpower Commission."

"The unions had planned the action to protest against 'the slow progress being made by the LRA working committee.'"
Labour blazes a trail for post-apartheid law

"If this is the way deals are struck in the new South Africa — with give and take and a willfulness to settle conflict by dialogue — I'm going to stick around." This jubilant comment by the Manpower Minister's administrative secretary, Jan van Tonder, followed last week's historic agreement between government, the employer body Sacoll and Cosatu/Nactu over the Labour Relations Act.

Readers of the 12 solid hours of talks in Pretoria, the deal was the first reached on actual legislation between the state and the liberation movement. It takes place as broader constitutional negotiations founder in the morass of countrywide violence. "The Witsman reforms were won ahead of political developments," was one comment. "Once again, labour is blazing a trail."

Observers also say surprise government concessions at the talks flew from a high-level government decision to seek a new relationship with the labour movement. The acid test of this theory will be whether Cabinet gives its stamp of approval.

Participants were also struck by the decisive role played by Manpower Minister Ellis Louw. In contrast with his heavy dependence on the Manpower Department in previous dealings on the LRA, the time of writing, the deal still had to be endorsed by the three constituencies: if the Cabinet backs it, Cosatu/Nactu will recommend to affiliates that they drop the one-day LRA stayaway planned for next month.

But against the threat of stayaway action, and Louw's direct role in negotiations, there is widespread optimism that agreement will be finalised. The "minute" signed in Pretoria by the three parties is the climax to protracted and difficult "joint working party" talks set up at a meeting with State President FW de Klerk after the June LRA strike.

This was sparked by the state's refusal — on the grounds that such consultation was needed — to make an agreement on interim LRA changes agreed between Sacoll and Cosatu/Nactu.

As a sign of penalty, the union upped their demands. In addition to legislation based on the Sacoll accord, they called for a second Bill extending the LRA to farm, domestic and public service workers.

That negotiations on a new labour dispensation for the public service, under the auspices of the Commission for Administration and the Department of National Education, will go ahead. It is also proposed that disputes over unionorganising rights be submitted to third-party conciliation.

That the NMC will report on its investigation into the legal position of farm and domestic workers by June next year.

Industrial undertakings in agriculture are to be the subject of a separate NMC probe, to be concluded by the end of November. If sufficient consensus is reached — and wide consultation with agribusiness will be needed — the Sacoll Bill could be amended to cater for workers in this sector.

An additional sweetener is Louw's undertaking, made earlier this year, that the Basic Conditions of Employment Act and the Unemployment Insurance Act are to be "suitably amended" next year to apply to farmworkers.

The issue of farmworkers remains a potential stumbling-block Cosatu and Nactu will need the endorsement of their farming affiliates, while powerful, conservative employer interests could hammer consensus on new law.

Union demands for a revamped Labour Appeal Court also seem to have been shelved, after it was pointed out that changes had to involve the Justice Department. To step up the process, the state has offered to facilitate talks between the unions and Justice Department representatives.

An intriguing prospect raised by last week's deal is that Cosatu and Nactu may continue to shape legislation directly through the NMC, the government's statutory advisers on labour law.

In a startling continuation of their newfound power and standing, the unions have agreed to consider forming a "restructured" NMC if the Cabinet approves the deal.
LRA stayaway on ice after Cabinet endorses 'minute'

BY DREW FORREST

In a giant step towards labour consensus, the Cabinet has endorsed the Labour Relations Act (LRA) "minute" agreed by unions, employers and the government last week.

Next month's threatened LRA stayaway will now almost certainly be averted. The structures of the Congress of South African Trade Unions (COSATU) and the National Council of Trade Unions (NACTU) must still approve the deal, but agreed to recommend the dropping of stayaway action if the Cabinet gave its backing.

Cosatu said yesterday it would make a formal decision at a special executive committee meeting on October 4.

It warned that if the parliamentary standing committee "tampered" with agreed changes to the LRA, "the whole process may revert to square one". The minute merely "mirrored a series of processes", it added. The outcome of these would be the acid test of whether the state and employers were willing to drop "antiquated practices".

The Cabinet decision will boost government efforts to win world credit for labour reforms. In a major diplomatic coup, Manpower Minister Eli Louw is to attend this year's annual conference of the International Labour Organisation (ILO), a specialist United Nations agency in Geneva.

Louw will be the first government minister to attend an ILO meeting since South Africa was ousted from the body in 1964. At a press conference in Pretoria yesterday, he said he hoped to draw on the ILO's "vast know-how" with an eye to developing an internationally approved labour system.

The Cabinet had unanimously accepted that the LRA agreement between Cosatu/Nactu and the employer body Saccola, as modified by the National Manpower Commission (NMC) and the joint working party involving the state, should be enacted.

Its key feature was the redefinition of unfair labour practice, such that the Industrial Court would weigh strikes and lockouts on the basis of their legality, not fairness. The NMC would negotiate codes of conduct on fair labour practices for employers and employees.

Changes to the LRA would not interfere with planned negotiations in the public service and education sector on a new labour dispensation. Louw said.

Provision in the Saccola accord for the registration of unions with public and private sector members would be enacted once these talks were completed.

He confirmed that Cosatu and Nactu had agreed to join a restructured NMC, after consultations.

• See story on page 9
In a major labour relations breakthrough, the Cabinet is expected to endorse an agreement for a new Labour Relations Act — breaking a three-month deadlock between government, employer body Saccola and union federations Cosatu and Nactu. In an interview with the FM, Manpower Minister Elh Louw said he would recommend that Cabinet approves the legislative amendments as agreed upon by the parties.

After 12 hours of talks, last week, the parties accepted the National Manpower Commission proposals, says Louw. This resolved the major point of the agreement, namely the definition of an unfair labour practice: “We went back to the pre-1988 definition, which is less prescriptive and gives more discretion to the Industrial Court,” says Louw. If Cabinet accepts the agreement, Louw promises that it will be introduced into parliament next year.

Louw plans to bring SA’s labour system into accord with International Labour Organisation (ILO) standards. He leaves next week for Geneva to attend an ILO meeting — the first such visit in years by a SA labour minister.
Workers win major battle

By ALINAH DUBE
and SAPA

Minister of Manpower Mr El Louw told a news conference in Pretoria yesterday that the recommendations were agreed to by himself, Cosatu, Nactu and Saccola on September 13 and 14.

The Cabinet approved the changes at its meeting yesterday.

The main amendment to the LRA would be on the definition of an unfair labour practice. The revised clause meant that future strikes or lock-outs would no longer be judged by the Industrial Court on the basis of their being fair or unfair.

They would be considered on the

To Page 2"
Major players welcome LRA breakthrough

UNION federations Cosatu and Nactu and employer federation Saccola yesterday welcomed as a major breakthrough the Cabinet decision to endorse the tripartite agreement on labour legislation.

The Cabinet decision to approve the deal reached on September 11 was announced at a media briefing yesterday by Manpower Minister Elu Louw. He said it was "a milestone on the road to achieving internationally acceptable labour legislation".

The 16-point agreement contained, as a "minute" includes an undertaking by government to submit to Parliament this month for consideration by the joint committee on manpower a draft amendment Bill to the Labour Relations Act Bill.

It also contains an in-principle commitment to bargaining rights for all workers and sets out processes to be followed in implementing this principle regarding public sector, farm and domestic workers.

In terms of the agreement the unions are to call off the work stayaway planned for next month and will join a restructured National Manpower Commission (NMC) which will be a central part of these processes and is still investigating a revamping of the entire Act. They and Saccola will consult the SA Agricultural Union on bargaining rights for farm workers.

Cosatu said a formal decision on the agreement would be taken on October 4 at a special executive committee meeting.

A Cosatu spokesman warned that the Minister's announcement should be tempered with some caution in that, should the joint committee tamper with the proposed legislative changes, the whole process could "revert back to square one". The minute constituted "only a beginning to a set of processes. The acid test lies in what emerges from these processes."

Nactu acting general secretary Cunningham Ngcukana said his organization considered itself bound by the minute's terms.

Saccola chairman Antan Roodt described the development as "an historic breakthrough, clearly demonstrating that consensus on critical issues of national importance is possible where the leadership and will exist."

The immediate amendments to the Act would stop interdicts against lawful strikes and lockouts, restore to normal the onus of proof question where unions are sued for losses incurred by employers in unlawful strikes, and delete the codification section of the unfair labour practice definition. This would give greater discretion to the Industrial Court. But Louw, however, disclosed that the NMC is, through employer/union consensus, going to develop a new "code of conduct" between the parties which could serve a similar purpose.
Cosatu happy with govt decision on LRA

COSATU has welcomed the Cabinet decision to endorse the Labour Relations Act Working Party Minute.

A statement released in Johannesburg this week said the decision was a victory for workers.

"The way has now been cleared for the most objectionable of the September 1988 amendments to be removed from the statute book," said the statement.

"It must be strongly emphasised however that the Minute only becomes an agreement once all parties have had an opportunity to consult their constituencies."

Cosatu said Manpower Minister Eli Louw's announcement should be tempered with caution in that:

- Should the Parliamentary Standing Committees tamper with the proposed legislative changes in any way, then the whole process may revert back to square one;
- The Minute constitutes only the beginning of a set of processes, and the acid test lay in what consent emerged from these processes; and
- The Minister's Press statement on Thursday was "unfortunately highly selective and inaccurate in part."

- Sapa
Nactu on negotiations

By DON SEOKANE

NATIONAL Council of Trade Unions would decide this weekend whether to negotiate with the government, Nactu president Mr James Mndaweni told delegates at the federation’s three-day conference at Nasrec, Crown Mines yesterday.

Mndaweni said the congress came at a time when “the future is pregnant with possibilities.”

“We believe that before any negotiations could begin, consensus within the broad liberation movement should be reached to avoid friction. “Until the Internal

Security Act, Population Registration Act and the State of Emergency is repealed, the struggle for liberation should be intensified,” Mndaweni said.

PAC secretary-general, Mr Benny Alexander, said Nactu should spell out its position on negotiations.

Alexander said the PAC had no mandate to negotiate with the “illegal regime” and that the only democratic and legitimate process for negotiations is a constituent assembly based on one person one vote on a common voters’ roll in a unitary state.

The congress was attended by representatives of the British, Canadian and American embassies. Foreign trade unions including the International Confederation of Free Trade Unions were represented.
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SA's labour practices will move forward

By SHARON SOROUR
Labour Reporter and Sapa

SOUTH Africa will create a system where labour practices are more in accordance with internationally accepted standards, says Manpower minister Mr Eli Louw.

After a week-long visit to the International Labour Organisation (ILO) in Geneva, Mr Louw said certain elements still had to be addressed the plight of domestic workers, farm workers and public sector employees.

However, proposed amendments to South Africa's labour legislation had been seen in a positive light by the ILO.

At a Press conference in Pretoria he said there was an understanding about the challenges the country faced, which had been created by the release of African National Congress deputy president Mr Nelson Mandela, the leadership of President De Klerk and the unbanning of political organisations.

The proposed legislation amendments, which will be raised in the forthcoming parliamentary session, proved that South Africa "was moving in the right direction".

On the domestic work, farm work and public sector front he said, "The Manpower Commission is working on two of these issues... It is negotiating with the representative parties in the field."

Complaints laid with the ILO against the government by the giant trade union federation Cosatu were raised in a meeting between Mr Louw and the director-general of the ILO, Mr M Hansenne.

These included the consideration of race in the registration of trade unions.

Mr Louw emphasised this had been addressed in the proposed amendments.
"Undemocratic" white union vote under fire.

By SHARON SOROU, Labour Reporter.

The National Union of Industrial Workers of South Africa (Numsa) has proposed voting changes to weaken the influence of white-dominated unions at industrial council level, Labour News reports.

The union affairs digest said the 130,000-strong union wanted to abolish the present one-union, one-vote system and replace it with a proportional representation system on the National Industrial Council for Engineering and Metal Industries.

The council was the largest in South Africa, comprising 14 unions and the Steel and Engineering Industries Federation of South Africa (Seisa) which represented about 70 employer bodies.

DISPROPORTIONATE

If the union's demands were met, they would have a ripple effect across the industrial council system, according to the digest.

The present voting system gave disproportionate power to the smaller, generally conservative and white-dominated craft unions which occupied most of the seats on the industrial council, the journal said.

Numsa national organiser Mr. Alastair Smith said Seisa and all 14 unions had equal representation regardless of their size.

He said, "This means that when it comes to important decision-making, all takes is one of the 14 unions to vote with the employers to get a simple majority."

It was an undemocratic process as some of the smaller unions had only three or four thousand members.

"We want representation on the basis of membership so that if 50 percent of the trade unions are not in favour of a particular decision, then it cannot be passed," Mr. Smith said.

Numsa had raised the issue several times "with little success" as the council accepted the proposal "in principle," he added.

"We now have an agreement to pursue the discussion and we are hoping to make significant progress."
NOTICE 842 OF 1990
DEPARTMENT OF MANPOWER
NATIONAL MANPOWER COMMISSION
INVITATION FOR SUBMISSIONS REGARDING AGRI-INDUSTRIES

1. The Minister of Manpower has requested the National Manpower Commission (NMC) to consider and recommend before the end of November 1990, the possible inclusion of the following clause in the proposed Labour Relations Amendment Bill to be tabled in Parliament during 1991:

Section 2 (2) (b):

Notwithstanding the above, this Act shall apply to any undertaking that in the nature of its operations, is industrial in character.

1.1 This request relates to so-called agri-industries, i.e., undertakings in the broader agricultural sector that are mainly involved in non-farming operations. The request should be seen as separate from the NMC investigation regarding the expediency or otherwise of making the Labour Relations Act, No. 28 of 1956 (LRA) applicable to bona fide farmworkers, regarding which investigation the NMC will in due course call for submissions.

2. In an endeavour to facilitate the widest possible consultation and in an effort to work for broad consensus, comment from any interested party in regard to the proposed inclusion of the clause in the Bill, is hereby invited. The responses received will enable the NMC to consider and recommend to the Minister of Manpower, an appropriate course of action.

3. The following background is provided in an effort to raise some of the relevant issues and to put forward certain arguments pertaining to the possible inclusion of the proposed clause or an alternative clause.

4. Section 2 (2) of the LRA whereby farming operations are excluded from the ambit of the LRA, has given rise to a long line of Supreme Court and more recently, Industrial Court decisions as to the application of the Act “to persons in respect of their employment in farming operations”.

5. The present accepted case law position would roughly seem to be that both the nature of the main activities in which employees and employers are associated together for purposes of farming and the nature of the enterprise would determine whether the undertaking constitutes farming operations as envisaged in the Act. This is, however, not necessarily conclusive in itself [see Sweet, Food and Allied Workers Union and Another v Delmas Kuikens, (1986) 7 I.L.J. 628 (IC)]

6. The aim of the proposed inclusion of section 2 (2) (b) is by no means to place bona fide farming interests of ordinary farmers within the ambit of the LRA. Rather, with the development of agri-industries (and the advent of agri-businesses) it has become imperative to work towards a position of certainty in this regard. It is becoming increasingly clear that although certain undertakings may be termed enterprises in which employees and employers are associated together for farming purposes, the actual nature of the operations may well be industrial in character. Those employed in

KENNISGEGNIS 842 VAN 1990
DEPARTEMENT VAN MANNEKRAG
NASIONALE MANNEKRAGKOMMISSIE
UITDINGING OM VERTOE TE LEWER INSAKE AGRI-INDUSTRIE

1. Die Minister van Mannekrag het die Nasionale Mannekragkommissie (NMK) versoen om oorweging te skenk aan en aanbevelings te doen vir die einde van November 1990, aangaande die moontlike insluiting van die volgende klousule in die voorgestelde Wysigingswetsontwerp op Arbeidsverhoudinge wat in 1991 ter tafel gelei sal word

Artikel 2 (2) (b):

Nieteenaandé die bostaande, sal hierdie Wet van toepassing wees op enige onderneming wat in die aard van sy bedrywighede, industrieel van aard is.

1.1 Hierdie opdrag het betrekking op sogenaamde agri-industriee, d.w.s. industrie in die breë landbousektor wat hoofsaaklik betrokke is in nie-boerderybedrywighede. Die opdrag moet gesien word as afsonderlik van die NMK ondersoek rakende die wenslikheid al dan nie om die Wet op Arbeidsverhoudinge, No. 28 van 1956 (WAV), op bona fide-plaaswerkers van toepassing te maak. Die NMK sal tergelegenheid vertoe aanvaarings 1.o.v. hierdie ondersoek

2. In 'n poging om die grootste mate van konsulasie moontlik te maak en as deel van die soeke na breë konsensus, word kommentaar van enige belanghebbende party rakende die voorgestelde insluiting van die klousule in die wetsontwerp hiermee uitgenoem. Die vertoes sal die NMK in staat stel om die Minister van Mannekrag van gepaste advies te voorsien

3. Die onderstaande agtergrond word voorsien om seker te maak van die relevante aspekte te oep en om seker te maak van die onderneemings 1.o.v. die moontlike insluiting van die voorgestelde klousule of 'n alternatiewe klousule te oep

4. Artikel 2 (2) van die WAV waardeur boerderybedrywighede uitgesluit word van die bestek van die WAV, het aanleiding gegee tot 'n hele reeks beslissing van die Hooggeregshof en meer onlangs die Nyeperheshof, insoos die toepassing van die Wet 1.o.v. "persone ten opsigte van hul diens in boerderybedrywighede"

5. Die huidige aanvaarde hoofbeslissing in die breedweg aan dat beide die aard van die hoofaktiwiteit waarmee werkgevers en werknemers saam geassosieer is vir die doeleindes van boerdery sowel as die aard van die onderneming sal bepaal of de onderneming boerderybedrywighede in terme van die WAV behels Dit is egter nie noodwendig besluitend opsigse nie [sien Sweet, Food and Allied Workers Union and Another v Delmas Kuikens, (1986) 7 I.L.J. 628 (NH)]

6. Die oogmerk met die voorgestelde insluiting van artikel 2 (2) (b) is geensins om bona fide-boerderybedrywighede van gewone boere binne die bestek van die WAV te plaas nie. Met die ontwikkeling van agri-industriee (en die ontstaan van agri-besorghede) het dit eerder belangrik geword om te beweeg na 'n posisie van sekerheid in hierdie verband Dit word algemeen meer duidelik dat alhoewel sekere ondernemings as ondernemings beskryf kan word waar werkgevers en werknemers saam geassosieer is vir boerderydoelendes, mag die werkklike aard van die bedrywighede in die waarheid industriee van aard wees. Diegene wat in
this connection may be subject to conditions similar to those applicable to employees falling within the ambit of the LRA, and they would thus be entitled to the protection afforded by the LRA.

7. It has also become imperative to clarify the position for purposes of the above-mentioned NMC investigation regarding the accommodation of farm workers in terms of labour legislation.

8. It is foreseen, however, that difficulties may well arise as to the definition of "industrial character" when it comes to farming. This aspect may in terms of section 76 (3) possibly be left for determination on the facts by the Courts, and here especially by the Industrial Court. Submissions are invited regarding other mechanisms which are simple, efficient and inexpensive (also for the State), whereby such determinations can be made.

8.1 Taking into account existing guidelines in terms of case law, activities related to agricultural production, can possibly be categorized in several ways. One such way is probably the following:

(a) Primary activities: These include all bona fide (primary) farming activities such as sowing, cultivating crops, harvesting, breeding live stock, raising live stock, etc. It will possibly also include cleaning, packaging and storage of the farm's own primary produce.

(b) Secondary activities: These include industrial activities pertaining to the agricultural sector, such as the secondary processing or refining of farm produce, the packaging of processed farm produce, etc. It may possibly also include the purchasing and further processing (milling or packaging of other farmers' produce).

(c) Tertiary activities: These include service activities as they pertain to the agricultural sector, such as trading in agricultural produce.

8.2 Other possibilities to differentiate between the various activities, are on the grounds of ownership, scale of production or the nature of the production process. There may also be further or even be simpler tests which could be applied to distinguish between activities which are industrial in character and bona fide farming activities. Submissions on this aspect are invited.

9. The definition of "undertaking" is also important. At present it is accepted that an employer may be involved in the agricultural sector as a person running a farming operation (thereby excluded from the LRA), but may also be considered as employing other employees engaged in separate activities (eg industrial) and such employees will be included under the LRA.

This is possible because "undertaking" in terms of the LRA also includes a section or portion of an undertaking. On the other hand, it is quite clear that not only farmers in the conventional sense may be engaged in farming operations, but other commercial or industrial firms may equally be engaged in farming operations in which they employ farm workers excluded from the ambit of the LRA [see HL & L Timber Products (Pty) Ltd v Clegg (1990) 11 ILR 847 (IC)]. The inclusion of the proposed section 2 (2) (b) could possibly bring more clarity in this regard.

verband in diens geneem word mag onderhewig wees aan omstandighede wat soortgelyk is aan de wat van toepassing is op werknemer wat binne die bestek van die WAV val, en hulle sou dus geregte wes op beskerming in terme van die WAV

7. Dit is ook van belang dat die posisie uitgekiield moet word vir die doeleindes van die bogenoemde ondersoek deur die NMK rakende die akkommodering van plaswerkere in terme van arbeidswetgewing.

8. Dit word egter voorsien dat probleme monootlik kan ontstaan rakende die definisie van "industriee van aard" t.o.v. boerderiedrywghede Hierdie aspek kan monootlik in terme van artikel 76 (3) gelaat word vir 'n bepaling op die feite deur die hoe en veral die Nywerheidshof. Vertoe word verlang rakende ander mekanismes wat eenvoudig, effektief en koste-doolrefend is (ook vir die Staat), waardeur sodanige vasteleings gedoen kan word.

8.1 Met inagtneming van die reglyne wat reeds bestaan in terme van hofbeslissings, kan aktiviteite t.o.v. boerderyproduksie monootlik op verskille wyyses gekategoriseer word. Een sodanige manier is waarskynlik die volgende:

(a) Primêre aktiviteite: Dit sluit in alle bona fide (primere) boerderiedrywghede in soos plant, bewerking van gesaaides, oes, veeteelt, ens. Dit sal monootlik ook insluit die skoonmaak, verpakking en opberging van die plaas se eie primêre produkte.

(b) Sekondêre aktiviteite: Dit sluit in industriële aktiviteite wat verband hou met die landbousektor, soos bv die sekondêre prosessering of versiering van plaasprodukte, die verpakking van geprosesseerde plaasprodukte, ens. Dit kan monootlik ook insluit die aankoop en verdere prosessering (maal of verpakking van ander boere se produkte).

(c) Tersiêre aktiviteite: Dit sluit in diensaktiviteite met betrekking tot landbou, bv. handel dryf in landbouprodukte

8.2 Ander monootlikheid om te onderskei tussen verskillende bedrywghede, is op grond van eienaarskap, skaal van produksieproses. Daar mag ook verder en selfs eenvoudiger toetses wees wat toegepas kan word om te onderskei tussen aktiviteite wat industriee van aard is en bona fide boerderiedrywghede. Vertoe oor hierdie aspek word aangevra.

9. Die definisie van "onderneming" is ook belangrik. Tans word dit aanvaar dat 'n werkgever in die landbou betrokke kan wees as 'n persoon wat 'n boerderiedrywghed bedryf (daarmee uitgesluit van die WAV), maar dat hy ook ander werknemers in diens kan hê wat betrokke is in ander of gedeelte van 'n onderneming. Aan die ander kant, is dit ook duidelik dat nie alleen boere in die konvensionele sin betrokke mag wees by boerderiedrywghede nie, maar ook ander kommeriale of nywerheidsondernemings wat ewewel betrokke kan wees in boerderiedrywghede en waar hulle plaswerkere in diens neem wat uitgesluit is van die toepaslike bestek van die WAV [sien HL & H Timber Products (Pty) Ltd v Clegg (1990) 11 ILR 847 (NH)]. Die insluiting van die voorgestelde artikel 2 (2) (b) kan monootlik meer duidelikheid in hierdie verband bring.
9.1 It should also be noted that the courts have defined an “undertaking” as follows: “An undertaking may be those industrial operations, generally large in scope, which involve any or all of the operations of industry but are not so general or common in occurrence that they may be said to fall under any recognized industry ... Industry denotes the devotion of work to production, generally understood as commercial production rather than mere creation”. R v Port Elizabeth Municipality 1928 EDL 49.

10. To simplify the processing of submissions, it would be appreciated if submissions could be structured along the following lines:

(a) Whether a clause with the intent of section 2 (2)
(b) should be incorporated in the LRA. Please motivate both positive and negative responses.

(b) Whether the proposed wording would be unambiguous, and if not, what alternative wording would be more suitable.

(c) What should be understood by “industrial in character”?

(d) Possible tests or guidelines to distinguish between undertakings that are industrial and those that are agricultural in character.

(e) Proposals regarding inexpensive (also for the State), efficient and simple mechanisms to determine whether an undertaking is industrial or agricultural in character.

11. Any comments or representations regarding the proposed section 2 (2) (b) should be submitted in writing, in duplicate, before 26 October 1990. The submissions obtained, if necessary, may be made available for public information. One copy must be sent to the Secretary (at Ms F. A. Kroukamp, National Manpower Commission, Private Bag X316, Pretoria, 0001, and the other to the Director-General: Manpower, Private Bag X117, Pretoria, 0001.

M. J. K. BLOM,
Secretary
(5 October 1990)

BOARD NOTICE

BOARD NOTICE 69 OF 1990
THE SOUTH AFRICAN MEDICAL AND DENTAL COUNCIL
ELECTION OF MEMBERS OF THE PROFESSIONAL BOARD FOR MEDICAL SCIENCE

It is hereby notified in terms of section 15 (5) of Act No. 56 of 1974 and regulation 8 of the regulations for the election of members of the Council published under Government Notice No. R. 2279 of 3 December 1976, that the following registered medical scientists have been validly nominated as candidates for election as members of the Professional Board for Medical Science, for the five year period 1 December 1990 to 30 November 1995.

Fripp, Peter John.
Jansen, Stander.
Nel, Pieter Philip Cornelius.
Smith, Martin Sidney.
Steyn, Josef Markus.
Van Helden, Paul David

RAADSKENNISGEWING

RAADSKENNISGEWING 69 VAN 1990
DIE SUID-AFRIKAANSE GENEESKUNDIGE EN TANDHEELKUNDIGE RAAD
VERKIESING VAN LEDE VAN DIE BEROEPSRAAD VIR MEDIHSE WETENSkap

Ingevolge artikel 15 (5) van Wet No. 56 van 1974 en regulasie 8 van die regulasies van die verkiesing van lede van die Raad afgedwing, by Gouvernementskennisgewing No. R. 2279 van 3 Desember 1976, word hierby bekendgemaak dat ondergenoemde geregistreerde mediese wetenskaplikes geldig genominer is as kandidate vir verkiesing as lede van die Beroepsraad vir Mediese Wetenskap vir die vyfjaarper 1 Desember 1990 tot 30 November 1995:

Fripp, Peter John.
Jansen, Stander.
Nel, Pieter Philip Cornelius.
Smith, Martin Sidney.
Steyn, Josef Markus.
Van Helden, Paul David
Don't alter LRA 'minute' - Cosatu

By DREW FORREST

The Congress of South African Trade Unions' national executive committee has ratified the historic "minute" on the Labour Relations Act forged by union, employer and state negotiators.

Confirming this, Cosatu's Geoff Schreiner stressed that two concerns were raised at yesterday's NEC meeting. These were that the process of legislating the agreement should be smooth and without interruption and that further LRA amendments, notably union rights for farm, domestic and state workers, were required.

Cosatu has said that if the parliamentary standing committee "tampers" with the agreement, negotiations may revert to square one.

"We view the minute as a major victory for workers. But if we are forced to, we will again resort to action," he warned.

Schreiner said Cosatu was committed in terms of the minute to participation in a revamped National Manpower Commission. However, Cosatu leaders would meet next weekend to debate whether to take part on an interim basis and on demands for restructuring.

There has been speculation that as a first step towards engagement with the NMC, Cosatu may join a sub-committee on farmworkers' labour rights.

Yesterday Bobby Godsell, a representative for the employer body Sacola, said he foresaw no problems with Sacola's endorsement of the minute.
LABOUR FOCUS

ILO may help formulate new SA labour laws

By DREW FORREST

The International Labour Organisation is believed to have offered assistance to the South African government in reformulating labour law in line with international standards.

If the reports are correct, this would be the major breakthrough of Manpower Minister Ebi Louw's recent trip to Geneva, where he met ILO director-general Michel Haasenme and other officials during the organisation's annual conference.

The purpose of Louw's contact was to discuss whether South Africa would submit to ILO jurisdiction on a complaint lodged by the Congress of SA Trade Unions over the 1988 amendments to the Labour Relations Act.

The ILO constitution provides for a fact-finding and conciliation commission to investigate complaints emanating from non-member countries, if the government concerned agrees. South Africa effectively lost its ILO membership in 1966.

It appears that although Louw did not reject ILO jurisdiction, he is playing for time on the issue. At a press conference this week, he suggested the complaint might fall away with planned amendments to the LRA next year.

The Cabinet recently endorsed an LRA deal reached between Cosatu/Nactu, Sacol and the Manpower Department, in terms of which most of the controversial 1988 amendments will be scrapped in the next parliamentary session.

Louw stressed that one of Cosatu's objections to the LRA, that it provided for racial registration of unions, would be addressed in the proposed amendments.

The government has been vague about future contacts with the ILO, saying only that it could not be excluded. But the UN agency is believed to be willing to help formulate legislation compatible with ILO conventions.

Direct ILO-to-government contact on the LRA would be a major step forward from initial consultations between the National Manpower Commission, Sacol and Cosatu/Nactu at an ILO-sponsored seminar in Harare earlier this year.

It would be facilitated by Cosatu/Nactu involvement in a restructured NMC-a move envisaged by the recently signed LRA "minister." Sources indicate that as a first step, Cosatu may join a special NMC committee on farmworkers' labour rights, due to convene later this month.

Government sources said there was a possibility of direct ILO-to-government consultations, once proposed LRA amendments had been drafted.

Clive Thompson, head of the University of Cape Town's Labour Law Unit and a member of the NMC's sub-committee on the LRA, said he believed South African readmission to the ILO was still some years off. "In this period of political transition, the aim is one of engagement," he said.

"ILO help at this stage could be crucial. It may be easier to get good labour law now, when things are fluid, than in the future when political positions harden."
Big Labour Reasserts on
Way
Sacobs Botha welcomes agreement on labour law

THE labour law agreement between unions, employers and government represented a decisive move away from protest to a more constructive way of handling conflict, Sacob industrial relations committee chairman Bokkie Botha said yesterday.

The benefits of the agreement reached last month would be felt by all employers, particularly small business employers.

Very significant, he said, was the clause in which all parties committed themselves “to dialogue and discussion to resolve conflict wherever it arises”.

While this would not guarantee an end to problems, and shop floor problems would not disappear overnight, it did mean a commitment to an end of “unilateral” stayaways.

Sacob was pleased that Cosatu and Nactu had committed themselves to joining a restructured National Manpower Commission.

This would, in future, mean that all parties would become part of the process of developing labour legislation rather than some being outside critics.
Conciliation board for Gant's workers

CAPE TOWN — Mass firings on a Somerset West estate owned by DP national chairman David Gant have resulted in a successful application for a conciliation board by five of the sacked workers.

Confirming this yesterday, Stellenbosch attorney Glyn Williams said the workers, formerly employed in a sawmill on Mr Gant's estate, claim they were summarily and unfairly dismissed.

The workers and about 400 colleagues were fired in May after a three-day strike, demanding that Mr Gant negotiate with an elected committee on wages and conditions of service.

All but 69 workers were subsequently reinstated.

The former sawmill workers are deemed to be factory workers in terms of the Labour Relations Act and have access to the Industrial Court, Mr Williams said.

A separate Supreme Court action is being prepared for the reinstatement of the remaining workers.

Mr Gant was not available for comment.

His attorney, L Blignaut, refused to comment — Sapa.
**Cosatu's drive pays dividends in homelands**

By DREW FORREST

A major drive by the Congress of SA Trade Unions is changing the face of labour law and labour relations in the homelands.

Following changes of government and an intensified union organizing push, new laws have been passed in Transkei and Ciskei and are imminent in Venda and KwaNdebele. At the same time, Cosatu has announced a campaign in Bophuthatswana, involving stayaway action, to win the right to operate there.

Hundreds of thousands of homeland workers, many unorganized and on low wages, are affected.

A Cosatu document acquired by the *Weekly Mail* stresses that Cosatu's ultimate aim is to re-integrate the homelands into South Africa. But to give internal worker protection, boost organization and lay the basis for a unitary system, the federation has launched negotiations with homeland governments to pass laws more favourable to workers.

The aim is to provide speedy and simple legislation in line with South Africa's 1983 Labour Relations Act, allowing unions to operate and giving organizing rights.

Homeland laws, the document says, should cover all workers, including farm, domestic and state employees, provide a simple dispute procedure and industrial court system, or arbitration instead of a court, exclude legal strikes from the unfair labour practice definition, guarantee basic union organizing rights, and contain a simple union certification process. The automatic certification of South African-registered unions is proposed.

Cosatu also suggests the State President be pressed to strip "self-governing" homelands of labour jurisdiction, so that South African law applies.

It is understood that in the light of looming LRA changes in South Africa, the most enlightened of the homelands, kaNgwane, has shelved plans for its own labour statute and aims to restore central state jurisdiction.

Change is most advanced in Transkei and Ciskei, following the rise to power of regimes closer to the Mass Democratic Movement. Both homelands this year passed decrees formally recognizing unions and legalizing strikes.

Their "independent" status makes swift change possible. "Self-governing" homelands' laws need the State President's endorsement.

In Transkei, Cosatu has played a direct law-making role through the homeland's National Manpower Commission. It was the NMC, says Cosatu's Eastern Cape chairman Thembinkosi Mzali, which convinced the government to drop the 1988 LRA amendments from legislation drafted for Transkei by Nic Whyman.

And Transkei has overtaken South Africa in another key respect — the decree covers farm and domestic workers.

However, the federation is deeply unhappy at "unexplained" departures from NMC proposals — in particular, the exclusion of the civil servants, teachers and parastals from the decree. Also ignored were proposals for the automatic registration of South African-registered unions and majority union rights.

In Ciskei, where Cosatu and the chamber of industries dealt directly with the military council, the decree also excludes strikes from the unfair labour practice definition. But it does not cover civil servants, small business and farm and domestic workers.

To remedy these defects, Cosatu last week met Transkei's Major-General Bantu Holomisa and Ciskei's Brigadier Oupa Qquoze. According to Mzali, they concurred on most issues — with the key exception of civil servants.

Holomisa agreed, however, to refer to parastals on the issue of parastatal rights and to the NMC on the civil service, and Mzali is optimistic the demands will be met.

Qquoze, "less secure in his power," was a tougher proposition, he said.

Cosatu says resistance to civil service labour rights is widespread among homeland leaders, attributing this to fear of destabilization.

Cosatu also reports progress towards new law in other homelands. In its document, it says:

>- Negotiations are under way with Venda, which accepts most Cosatu proposals but is unhappy about civil service rights, and with QwaQwa.
>- KwaNdebele wants Cosatu to draft new laws, which would cover the public service, and may call a special legislative assembly next month to pass it.
>- Following rapid unification and mass strikes, Lebowa had met Cosatu and was keen to enact a new law covering all workers except police.
>- Gazankulu, however, had not responded to Cosatu overtures and was reportedly drafting legislation for enactment next January. "We must ensure laws are not passed behind our backs," Cosatu says.

The major stumbling-blocks remain KwaZulu — with which Cosatu has no relationship — and Bophuthatswana, the most developed homeland.

A ding-dong battle looms in Bophuthatswana, whose Industrial Concession Act bars "foreign" unions. Manpower Minister Simon Seodi last week stressed Cosatu had no legal standing in the territory and warned that workers joining the planned stayaway risked the sack.
Bill is fair reflection of labour accord

Employer federation Saccola has declared the recently published Labour Relations Amendment Bill a fair reflection of the agreements between itself, the unions and government.

The Bill, a culmination of two-and-a-half years of union protests, is to be discussed this week by the Manpower Parliamentary committee as part of the process of passage through Parliament. It is expected to become law early next year.

Saccola secretary Frieda Dowie said the Bill, drafted by government legal experts in terms of the tripartite agreement announced on September 28, appeared satisfactory.

Union officials could not be reached for comment. However, UCT labour law unit director Clive Thompson said an initial reading of the Bill threw up at least one poorly thought-out sub-clause, but he had found nothing to be seriously concerned about.

Thompson acted for the unions during stages of the dispute. He is a member of the National Manpower Commission's legislation committee which drafted a report on which the agreement, and therefore the Bill, is based.

The questionable clause to which he referred — Section 4 (a) (ii) — deals with the power of the Industrial Court to grant urgent interdicts against work stoppages, a power arguably covered by another clause.

The most important features of the Bill include the reinstatement of the pre-1980 unfair labour practice definition removal from the Industrial Court the power to interdict lawful strikes and lock-outs.

It would also limit the court's ability to grant interdicts within 48 hours notice to the respondent other than under special circumstances and extend the time limits for referring disputes through official channels.

It also aims to delete from the Labour Relations Act the controversial clause which reversed the onus of proof requirement in the case of damages suits brought against unions for losses sustained in unlawful strikes.

It would also delete a section of the Act which could be used by uniracial unions to protect their position against non-racial unions.
Consultant alleges informal govt-ANC labour accord

TRADE unions shied away from strike action in the third quarter of this year because of an informal accord between the ANC and government in the wake of the Pretoria Minute, Levy, Pirson and Associates director Brian Allen said yesterday.

The agreement accounted for the NUMSA's readiness to accept a settlement in the metal and mining industry pay talks despite a ballot in favour of strike action after prolonged and apparently deadlocked negotiations.

He said the ANC and Cosatu traded a withdrawal from strike action for government assurances of an acceleration in reforming the Labour Relations Act.

The settlements in the metal and mining industry in August contrasted with a surge of bitter industrial disputes and a record 1.2-million man-days lost in the first half of the year.

Consultants said the settlement level for the third quarter dropped from 17.8% in the first six months to 16.9%.

The 1989 average settlement was a fraction under 17.4%, the same percentage as last year and half a point down from 1988.

Allen said this showed union leaders were increasingly concerned with the trade-off between jobs and wages, successfully bargaining for negotiated retrenchments, training and better severance pay to be written into wage agreements.

He said the salient feature in industrial relations this year was industrial unrest and unconsulation in the public sector.

Consultants said the ramifications for the state were huge given that the LRA amendments would cement its role as an employer and that government was expected to spend R18m or 25% of the national budget on paying central government and provincial workers next year.

The bulletin also noted the shift in Cosatu's attitude to the necessity of a national minimum wage.

Consultants said unemployment in SA had reached critical levels and that with the little sign the economy would grow by the 5% necessary to sustain even current levels of employment.
Policy shift as union federation joins NMC

By DREW FORREST

IN a key policy shift, the congress of SA Trade Unions is to join the state's National Manpower Commission before it has been overhauled, but subject to certain conditions.

In the Labour Relations Act "minute" adopted by unions, employers and the state, Cosatu and Nactu undertook to join the statutory advisory body on labour law once it had been restructured.

But at a council meeting last weekend, Cosatu decided to enter the NMC with immediate effect. As the body was processing the "minute", this would ensure the federation's involvement in the first stage of law-making, said Cosatu's campaigns co-ordinator Lisa Sefele.

"If the NMC is not going in the direction we desire, we'll return to mass action to press our demands," she said. "And we reserve the right to withdraw if we don't feel we are gaining from participation."

A key Cosatu demand is the setting of a deadline for the restructuring process. The federation would be formulating guidelines for restructuring, Sefele said.

Other conditions for participation are that:

- Manpower Minister Eli Louw should only appoint Cosatu representatives elected by the federation to the NMC and its sub-committees, and that the federation should have the right to recall its representatives;
- Louw and the NMC should deal with Cosatu as an individual affiliate;
- That Cosatu is not bound by NMC recommendations and reserves the right to protest against them. The federation also wants Cosatu positions reflected in all NMC proposals;
- Cosatu reserves the right to distribute NMC documentation among its affiliates;
- It is understood that in the initial stages, Cosatu will sit on sub-committees investigating labour rights for farm and domestic workers, as well as attending NMC workshops. These committees have already started their deliberations.
LABOUR

LRA 'war': Cosatu fires new volley at 'worrying' clauses

BY DREW FORREST

The Congress of South African Trade Unions has asked Manpower Minister Eli Louw for an urgent meeting to discuss "worrying" clauses in the recently published Labour Relations Amendment Bill.

In a statement signalling that the long Labour Relations Act war may not be completely over, Cosatu's Geoff Schreiner said the Bill departed in two key respects from legislation accepted by unions, employers and the state when they adopted the recent watershed LRA "minute".

This was a violation of a pledge by Manpower Director-General Joel Fourie that any changes would be referred to the lawyers of Cosatu and Saccoa, he said.

He also complained that despite an undertaking that the unions would be involved at all stages of legislation, Cosatu had not been invited to attend parliamentary joint committee deliberations on the Bill this week.

Fourie could not be contacted. But Louw's administrative secretary, Jan van Tonder, said the parliamentary committee had decided to hear evidence and Cosatu had been asked to give it.

He also stressed that the committee hearings amounted to a first reading of the Bill. Louw could not insist on Cosatu's participation, "in effect, they would become temporary members of parliament," he commented.

Schreiner said Cosatu was concerned at a clause specifying the Industrial Court's discretion to ban as unfair practices in the 1988 unfair labour practice code, which the Bill repeals. Originally neutral, this now encouraged the court to consider these practices unfair, he said.

Another change empowered the Industrial Court to interdict work stoppages which could include lawful strikes. A vital feature of the agreed legislation was the immunity of lawful strikes from interdict. "Read together, these clauses could enable the court to ban legal strikes," Schreiner said.

Labour lawyer John Brand described the work stoppage clause as "a further indication of sloppy and incompetent drafting and a departure from the agreement".

Reacting, Van Tonder said he was convinced there was no bad faith and that "misunderstandings and uncertainties" would be clarified. "The changes may have been made by the government's legal adviser while the minister was overseas," he said.
New labour Act should sort out any problems

MATTHEW CURTIN

POLITICAL changes in SA this year placed a strain on the country's labour relations system which it was not designed to bear, Manpower Minister Eli Louw said at the weekend.

He was nevertheless confident that whatever problems there were in the labour area, they would be accommodated within the framework of the Labour Relations Act.

Addressing an SA Society of Bank Officials (Sabo) banquet in Johannesburg on Saturday, Louw said labour relations were at the forefront of change in SA and constitutional change in particular.

Louw said unions were now facing "the bite of membership unemployment".

He warned if spiralling labour costs were not matched by increases in productivity, employers would simply move into new areas of technology, so reducing the demand for labour. Levels of employment depended on the competitiveness of SA exports, and unions should "review the soundness of their demands before going on overhasty strikes".
Farmers warn against excessive pay demands

THE SA Agricultural Union (SAAU) was confident it could pre-empt soaring wage demands and large-scale redundancies among farm workers, SAAU deputy director-general, services, Kohus Kleyhans said yesterday.

He said farmers realised labour would inevitably become more expensive. But if government listened to SAAU appeals not to extend the Wage Act to farm workers, if farmers adopted sound management principles which indirectly deterred unionisation and spiralling wage demands, and if farmers achieved greater productivity, agriculture would remain competitive in the job market.

Agriculture was traditionally fertile ground for union mobilisation. Farmers had no misgivings over the extension of the Basic Conditions of Employment Act (BCEA) to their employees. But, said Kleyhans, farmers were still wary of the implications that an extension of the Wage Act or unionisation, yet to be legitimised in terms of the Labour Relations Act (LRA), would have.

Excessive wage demands would threaten the 1.5-million farm workers in SA who, with dependants, made up almost a quarter of the country's population.

The Agriculture Department, in a report in August, said about 30% of farmers stood "to go bust by year-end", and the SAAU had appealed to government to make more bridging finance available for threatened farms.

Food and Allied Workers' Union assistant general secretary Mike Madlala said yesterday farmers should not prejudge the effect higher wages would have on the industry.

Fawu, the union charged by Cosatu to mobilise farm workers, was concerned primarily with ensuring farm workers were recognised in law and able to organise legitimately.

Manpower Ministry spokesman Johann Muller said yesterday Minister Eli Low had commissioned the National Manpower Commission (NMC) to investigate how to extend the BCEA and Unemployment Act to farm workers, and whether the Wage Act and the LRA should be extended.

The ministry was addressing the issues "with urgent attention". Future conditions in agriculture had to guarantee a living wage for employees and the economic performance of farms.

The SAAU's 19th annual congress opened last night in Pretoria.
LRA provisions irk farmers

PRETORIA — The agricultural industry's opposition to being included in the controversial Labour Relations Act (LRA) was stressed at the annual conference of the SA Agricultural Union yesterday.

Western Cape Agricultural Union president Chris du Toit warned that farmers were not prepared to be integrated into a formal labour relations framework yet. Neither were farm workers ready for such a sophisticated system of bargaining.

It was clear the proposal to include farm workers in the legislation was rooted in pressure from certain sources, apparently with political motivation, he said.

There were serious reservations about whether a system of industrial councils and industrial courts where every farmer and his workers could bargain on service conditions could ever work in practice.

Du Toit said unemployment was SA's greatest problem — not negotiations or constitutional reforms or any other problem politicians liked to talk about.

All factors, including legislation that could work against the creation of employment, had to be handled with kid gloves.

The farmer's production process was dependent on a reliable work force. They had no other choice "but to do the right thing at the right time" because of weather and growth cycles, Du Toit said.

The wage legislation collided with all the principles of a free economic system. "And I cannot see how imposing it on agriculture can be considered," he said.

Du Toit said the LRA was clearly tailored for the needs of the industrial and commercial sectors.

It had little relevance against a background of the complexities and different needs of the primary agricultural sector.

Massive stayaways actions and unrealistic wage demands had taken on political dimensions. What trade unions failed to appreciate was that employers were also fighting for survival.

Agriculture 'stymied by interest rates'

PRETORIA — Sustained high interest rates are among the major stumbling blocks preventing a significant recovery in the agricultural industry. This point was made yesterday at the SA Agricultural Union conference.

Free State Agricultural Union president Izak Cronje said the industry was worried about government planners' reliance on interest rate mechanisms in the fight against inflation.

Cronje said the interest rate policy should form part of a comprehensive strategy with a balanced fiscal and monetary policy package in which interest rates did not play a dominant and distorting role.

He stressed a purposeful fiscal policy should include a shrinking of government's demand on scarce capital and manpower resources and a reduction in government's part in the economy.

Speakers complained about the widening gap between producer and consumer prices.

In the previous 12 months, it was stated, production costs rose by nearly 18% against producer price rises of 5.4%.
Louw gives way on LRA changes

By DREW FORREST

MANPOWER Minister Eli Louw has
agreed to put amendments giving ef-
fect to the original proposals before the
standing committee, which is to vote on
the legislation this week. Cosatu had also
given evidence to the committee.

Cosatu's main concern was a clause
giving the Industrial Court discretion in
respect of the 1988 unfair labour practice
code, which the Bill repeals. Drafting
changes had stunned neutralists,
Schreiner said.

Also of concern was a clause empower-
ing the court to interdict "work stopp-
ges."
Sex, race to go from mining law

SEX and race discrimination are being removed from mining.

For the first time women will be allowed to work underground and people of colour will be able to acquire prospecting and mining rights.

In terms of the Mines and Works Amendment Bill which has been published in Cape Town, women will be able to go down the mine as long as they do not do "manual work." They will have to hold management positions or be employed in health or welfare services. Women will also be allowed underground if it is required for their studies.

A memorandum with the Bill says it aims "to delete certain obsolete restrictive measures in the Mining Rights Act which discriminate on the grounds of race."
While again unions are trying to ensure that members achieve increases above the inflation rate, the flipside is a significant rise in retrenchments.

NUM spokesman Jerry Majavu estimates that retrenchment figures on gold mines have reached 32,000 since the beginning of the year and the Chamber of Mines has warned that thousands more jobs are at risk.

Apart from wage claims, wage packages this year have included demands for provident funds, housing subsidies, parental rights, education and training and a reduction in the working week from 45 hours to 44 hours.

There has also been a heavy emphasis on long-service benefits.

Two areas which have been particularly important this year and in which progress has been made, are provident funds and parental rights.

Sacchewu in particular has made substantive gains, forging a precedent-setting agreement with Pick ’n Pay and recently achieving a substantial deal at Foschini. At Pick ’n Pay, women staff are entitled to nine months paid leave, which can be shared by couples working in the company.

And workers have pushed to move out of company-controlled pension funds into union-controlled ones.

Centralised — as opposed to plant-level — bargaining remains a big issue. Though there is a willingness on both sides to explore the possibility of negotiating at a centralised level, results are still tentative, says Cosatu’s assistant general secretary Sidney Mufamadi.

It appears that while unions are again prepared to accept wage settlements much lower than their opening demands, there is renewed and increased emphasis on conditions of service.

According to Saccewu’s Jeremy Daphne, significant improvements were made on non-wage issues: demands for March 21 as a paid holiday were generally won and there has also been a focus on compassionate leave and year-end bonuses.

As these processes continue, management, in turn, table counter-demands — mainly linked to productivity.

To date, they have had little success. Other demands are in areas of production and attendance bonuses.

Managements, in other words, are looking at more of a labour trade-off than the bargaining process has seen in the past. It is presumably the right time for such counter-demands, as recession bites and the economic arguments gain weight.
Fired Mewusa workers reinstated

RELATIONS have been normalised between the Metal and Electrical Workers Union of South Africa and a Potchefstroom metal company following the dismissal of 125 workers. The workers, who were dismissed by Anglo American's WJ Engineering Company on September 7th, were all reinstated following an out of court settlement.
Labour relations heading for yet another turbulent year

THE COMING year could be tough for labour relations.

The strike rate will be at least as high as this year's and wage increases will continue to outpace inflation, say labour consultants.

But the Sacaola-Cosatu-Nactu (SCN) accord could provide a forum for management and labour to find common ground on critical issues, such as housing, education and health.

The 4-million mandays lost to industrial action this year were largely due to widespread strikes in the public service—including walk-outs by hospital, school and municipal employees.

The retail and hotel sectors also accounted for a major part of lost mandays. The OK Bazaars, Cheekers and Southern Sun strikes were among the worst.

Upward

Wage issues were central to these strikes, and 71% of all mandays lost in the year were related to pay.

Political flux, giving rise to heightened worker expectations, and high inflation are believed to be the major causes of the rising strike rate.

Experts say these causes are still present, if not increasing. So the strike rate will at least be maintained.

Andrew Levy Associates consultant Brian Allen says: "Inflation is showing an increasing upward trend and political manoeuvring about the new constitutional structures is only beginning."

"We can expect much of the same pattern of strike action in 1992 as we experienced in 1990."

Wage increases were been consistently above the inflation rate in the 1980s. This year the trend was maintained — increases averaged 17.4%.

FSA-Contact consultant Mike Beaumont says that in 1991 the average pay increase is likely to exceed the rate of inflation because worker expectations and determination to

By ADRIAN HERSCH, human resources consultant

ADRIAN HERSCH: Tough year ahead

achieve more income will remain high.

But there could be a wider range in the settlements for the first time.

"In some instances, where companies are really battling, increases could be as low as 11% "

Job security is now a feature of bargaining.

Levy Associates Pat Stone says most negotiations are accompanied by demands for job guarantees and minimum severance benefits, and a ban on temporary and casual labour.

Tens of thousands of jobs were lost this year. The mining industry was particularly hard hit. The chances of a national strike in the industry were thus remote.

The Chamber of Mines and the National Union of Mineworkers (NUM) settled for an average increase of 16.5%.

Workers voted in favour of a strike in the metal industry, but it did not materialise.

The National Union of Metal Workers of SA (Numsa), the major union involved, said a strike had the potential to aggravate violence in the townships.

But the increases, ranging between 15% and 19%, are regarded by many as reasonable. The union probably agrees.

The agreement between the Manpower Department, the National Manpower Commission, Sacaola, Cosatu and Nactu under the Labour Relations Act (LRA) is expected to defuse tensions in the industry relations.

Testing

A Bill reflecting the agreement will be put before Parliament in early 1992.

One of the major changes to the LRA will be replacement of the unfair labour practice definition by one almost the same as that in force before the 1988 amendments.

Mr Beaumont says the forum established by Sacaola, Cosatu and Nactu offers hope for further discussion on issues beyond labour legislation. This potentially includes housing, education, job creation, small-business development and health care.

But the unions face a testing time. The Mercedes-Benz strike highlighted the problem of lack of worker solidarity. A minority of union members were against central bargaining, believing they could get a better deal for themselves through negotiations at the plant.

Appeals from union officials went unheeded.

Mr Beaumont says the question of union alignment with political parties could prove to be a major issue in 1991. If not handled carefully, it could lead to splits in the unions.
**LRA clauses on farm labour ‘to be dropped’**

MATTHEW CURTIN

The National Manpower Commission (NMC) was set to shelve clauses which include agrri-industrial workers in the new labour relations legislation due for promulgation in the first 1991 parliamentary session, it was claimed at the weekend.

Farm Workers’ Research and Resource Project (FRRP) co-ordinator Andrew Ball said the FRRP, as well as Cosatu and the Food and Allied Workers’ Union (Fawu), were concerned the clauses, part of the Sacuelo/Cosatu/Nactu accord, had been “squashed” after SA Agricultural Union representations to the NMC.

These workers now had “no guarantee” they would be covered by new legislation.

The FRRP was concerned the discrepancies in conditions between industrial workers and so-called agri-business workers in areas like forestry would be perpetuated. Ball said unionised workers in companies like Sappi, Mondi and Hans Merensky earned an average of R360 a month compared to their counterparts working in timber growing, classed as agricultural workers, who earned only R280 a month.

SAAU deputy director, general services, Kobus Kleynhans said there were several problems about the inclusion of agrri-industrial workers in the new amendments to the Labour Relations Act (LRA).

There was no succinct definition of these workers, and as Manpower Minister Eli Louw had instructed the NMC to compile a report on the possible application of the LRA to farm workers by the end of April, the SAAU felt there was no need to rush through clauses concerning agrri-industrial workers.

NMC member Adolph Landman said last week the inclusion of agrri-industrial workers in terms of the amended LRA had been postponed pending the NMC’s report on all farmworkers.

NMC acting chairman Frans Barker said there were practical problems in extending the LRA to farm workers.

The NMC remained committed to its task of investigating how the Unemployment Insurance Fund and the Basic Conditions of Employment Act would be extended to farm workers, and whether the LRA and Wage Act should be extended.
By CHIARA CARTER

THE crunch in annual wage negotiations in the Cape cotton industry is likely to occur within the next week.

According to Sactwu national organiser, Mr John Eagles, the union expects employers to table their final offers within the next week.

Sactwu itself is finalising activities to highlight living wage demands in the industry.

 Already four disputes have been declared — two by employers and two by the union.

“We anticipate tough sessions. Employers’ offers have so far been in the R20 to R30-a-week range. This is not near the bottom line demand of workers,” Eagles said.

A key demand put forward by the union is the re-establishment of a central bargaining forum.

The Industrial Council for the Cotton Textile Manufacturing Industry (Cape Province) was formally dissolved earlier this year following the withdrawal of major employers, including Barlow Rand subsidiaries, from the employer forum.

This year’s negotiations are being conducted at plant level at about 19 different companies in the Cape Peninsula and Boland.

According to Eagles, the union has formed a negotiating council to coordinate negotiations so that employers face uniform demands.

The union has adopted a hardline approach on non-union members and is demanding that employers implement lower increases for workers who do not belong to the union.

“The industry is highly unionised, with more than 90 percent of workers union members. We are adopting an extreme view on freelancers. We hope that they will decide to enter the union,” Eagle said.

Other demands include proclaiming Sharpeville Day as a paid holiday and standardising benefits in the industry.

While the implementation date for the agreement is January 1, Eagles said Sactwu was prepared to continue negotiations in the new year if necessary.

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Civil servants code

A WIDE range of public sector employee organisations met with the Commission for Administration in Pretoria last week and agreed on an interim labour relations code for public servants who are excluded from the Labour Relations Act.

The historic meeting agreed existing labour legislation in the public service is “inadequate” and employees should be involved in drawing up a new system which would include the entire public sector.

The meeting set up a collective bargaining mechanism which will meet in January next year.
UNIONS and staff associations representing 300,000 workers laid the foundations for a new labour deal in the public service in tripartite talks with the Commission for Administration last week.

In a key development, the employee bodies — including the largely white Public Servants Association and emerging black unions such as Cosatu's National Education, Health and Allied Workers' Union (Nehawu) — forged a united front at the talks and made common demands.

These included interim labour rights for unions such as Nehawu and unrecognised staff bodies. The Public Service Act makes no provision for union recognition or formal collective bargaining.

Nehawu general secretary Sisa Nkeleni said the talks signalled "a major breakthrough in building union rights in the public service, which we have been denied. It's clear now that we're making headway."

The commission has fought shy of the Saccola forum on the Labour Relations Act. But a state sector strike wave and consistent Cosatu pressure for the inclusion of state workers in the LRA has

Uneasy among staff associations and unions at recent talks heralded a breakthrough for workers' rights in the public service, reports DREW FORREST.

Nkeleni persuaded the government of the need for a new deal, and separate negotiations for public service unions were offered as a compromise earlier this year.

In the LRA "minute" signed by government, employers and the unions, Cosatu effectively agreed to shelve its demand for the immediate extension of the LRA to the public service and to use the alternative forum offered.

Last week's talks aimed at setting terms of, and criteria for participation in, a formal forum for negotiations. This will meet for the first time from January 28 to 30 next year.

Tough criteria applied by the commission to last week's talks led to the exclusion of Nehawu's National Union of Public Service Workers and SA Black Municipal and Allied Workers' Union, on grounds that they have members outside the public service.

After pressure from the union-staff association front, employers accepted new criteria which should allow Nactu to participate. These, it is reliably un

Nkeleni said his union would submit wage proposals for the 1991/2 financial year — only recognised associations have previously had this right. The commission has agreed to continue granting this right until a formal bargaining forum is established.

Access to the same information the commission gives to recognised bodies at departmental level access to information has to be approved by the relevant head of department.

The commission will also urge the Treasury to grant stop-orders for the collection of dues "where some form of relationship exists between the department and the staff associations/union".

These rights were of particular significance for Nehawu in departments such as development aid, agriculture, education and water affairs, where the union had made inroads, Nkeleni said.

In a joint statement, the employee bodies said they believed the negotiating forum should be broadened to include the public sector as a whole "with a view to consolidating the labour relations dispensation in the public sector".

In a summary of demands taken at last week's talks, which have been acquired by The Weekly Mail, the following topics are proposed for discussion next year: criteria and scope of recognition, collective bargaining structures, the bargaining process, the bargaining unit and levels of bargaining, dispute procedures, unfair labour practices and legislation.

The forum will have to decide whether the Public Service Act or the LRA governs public service labour relations, and, if the LRA applies, whether the sector should be covered by a separate chapter of the Act.

Nkeleni said the union-staff association front flowed from a recognition "that we have more to gain by co-ordinated activity than by bickering."

However, given the sharp contrasts in political and operating styles, the front's long-term viability seems doubtful. Conservative staff bodies allegeldy urged the state president not to enact the Saccola accord earlier this year. There are also membership battles Nehawu, for example, is in conflict with Cosatu, a black hospital worker body widely seen as a "sweetheart union."
Parliamentary committee insists on changes to LRA amendments

By DREW FORREST

The parliamentary joint standing committee on manpower has demanded changes to Labour Relations Act amendments planned for early next year, it was revealed this week.

Sources said the "critical core" of legislation agreed between employers, the Manpower Department and Cosatu/Nactu in the LRA "minute" would remain intact, and that the unions could probably live with the changes Cosatu and Nactu could not be contacted.

In what was effectively the first reading of the Bill, the standing committee insisted that the proposed notice period for strike interdicts should not apply to essential services.

The unions originally proposed a 72-hour period to enable them to respond in court.

The sources pointed out that the original proposal would have enabled unions to maintain essential service strikes, which are unlawful, without fear of interdict for the prescribed period.

"Essential services" are very widely defined in current law.

They also said the committee had extended proposed time limits in official dispute procedures.

The disclosure follows a National Manpower Commission (NMC) recommendation that the Bill should not extend LRA rights to undertakings in agriculture.

As a sop to the unions, which want all farmworkers covered, the LRA minute asked the NMC to investigate the interim inclusion of agric-industry.

Government has made no final decision, it is understood, but seems certain to follow the NMC lead.

Insiders said business interests on the NMC were overwhelmingly in favour of dealing with all farmworkers together.

The commission must report to government on the farming sector as a whole by next April.

It is believed that a split recommendation has gone to government, with Cosatu, which sits on the NMC's farmworker sub-committee, disavowing
Debate in Cosatu on a workers' charter to be included in a post-apartheid constitution had reached an advanced stage, although there were some “fundamental disagreements” on its content.

The major wage debate in trade union circles was whether a future government should legislate a minimum rate of pay, or whether market forces should be allowed to fill this function.

A white worker backlash could be expected as predominantly black-based unions blocked unilateral management changes in industrial relations.

White trade unions would also grow in the coming year.

Unemployment was unlikely to drop, causing unions to be less willing to discuss productivity and profitability at the expense of jobs. Pressure for the redistribution of wealth would continue.

The enactment of the current Labour Relations Bill in early 1991 would probably be met with demands for further modifications.

Unions party to the landmark Cosatu/Nactu/Saccola accord would “vigorously” campaign for the LRA to be extended to cover public sector, agricultural and domestic workers.

Privatisation in the public and industrial sectors was likely to be opposed by unions in alliance with the ANC and other “progressive forces”.

The State and smaller business sectors would be targeted in union recruitment drives.

Cosatu and its affiliates would continue to push hard for centralised bargaining and centralised social security benefits – resulting in a shift from “plant-based to an industry-based consciousness”.

Demands for union inclusion on decisions regarding reduction in permanent workforce levels had shown the emphasis shifting from the protection of workers to the protection of jobs themselves.

Unions were shifting to a “pro-active” strategy by including job security issues in wage bargaining time.

Other sectors also had to address the pivotal question of job creation in a bid to soften the retrenchment blow.

Cosatu's Living Wage Campaign, which set a basic monthly rate of R750 in 1990, was poised to gain momentum. Unions would demand more pay with less work, partly in a bid to preserve jobs.
the New Year
Labour demands in

SOWHANFORD MONDAY, DECEMBER 17, 1990.

The New Year
Labour demands in

SOWHANFORD MONDAY, DECEMBER 17, 1990.

The New Year
Labour demands in
Farm workers to get labour rights

Own Correspondent

JOHANNESBURG — Recommendations by the National Manpower Commission (NMC) that rights enjoyed by workers in other industries be extended to farmworkers will be gazetted on Friday, the Manpower Department confirmed yesterday.

Department spokesman Mr Joggie Kastner said the NMC's recommendations centred on labour rights such as unemployment benefits, maximum working hours, overtime, vacation leave, the right to form unions and the right to strike.

He added that his department was giving all interested parties until February 1 next year to comment on the recommendations before an amendment bill was drafted.

"After an amendment bill has been drafted it will be published in the Government Gazette to enable all interested parties to comment before it is taken to the cabinet for consideration," Mr Kastner said.

He added that the bill would be in the 1991 parliamentary session and had been approved by the cabinet.

The NMC was instructed by Minister Mr Els Louw early to investigate the extension of conditions of Employment, Unemployment and Labour Relations workers.

In terms of its agreement with the Nactu and Sacto in September, Mr Louw undertook to examine the question of extending union and other rights to farmworkers.
Doubts over farm labour suggestions

TRADE unions yesterday expressed reservations about the National Manpower Commission's (NMC's) recommendation that farmworkers not be granted the right to organise themselves in terms of the Labour Relations Act (LRA).

The Food and Allied Workers' Union (Fawu) — the Cosatu affiliate charged with mobilising farmworkers — and the National Union of Farmworkers (NUF) both cautiously welcomed NMC recommendations that basic working conditions and unemployment benefit requirements be extended to farmworkers.

Fawu assistant general secretary Mike Madlala said the NMC's recommendations were "a step in the right direction". But he warned that as long as farmworkers were without the "organisational protection" afforded industrial workers in terms of the LRA, the new provisions were no guarantee that farmworkers' conditions would improve.

Madlala said it had taken the establishment of black trade unions to ensure industrial workers' rights were observed even though the Basic Conditions of Employment Act (BCEA) and Unemployment Insurance Act (UIA) existed.

NUF general secretary Shaka Molebana said the recommendations — to be gazetted tomorrow — constituted progress. But the union, which he said had a paid-up membership of about 6,000 farmworkers, was concerned that the NMC had recommended agri-industry workers be excluded from the amendments to the LRA.

Under the BCEA, SA's 1.4-million farmworkers will have statutory maximum weekly and daily working hours, prescribed meal intervals, overtime pay, annual and sick leave, and contractual protection.

When covered by the UIA, farmworkers will enjoy unemployment, maternity, illness, adoption and health benefits accruing to dependants of deceased contributors. Farmworkers and their employers will contribute to the Unemployment Insurance Fund.

Once the Manpower Department has scrutinised comments on the recommendations, it will submit draft legislation for cabinet approval.

However, Manpower Department acting director-general Joffie Kastner noted yesterday that despite the NMC recommendations, farmworkers would still be without the legal right to strike or form trade unions, and would enjoy no minimum wage provision.

The NMC was expected to report early next year on whether the LRA and Wage Act should be extended to all farmworkers. The NMC would propose that workers on farming units, employing more than 100 staff, be covered by the new labour legislation, and that agri-industry workers be included, with all farmworkers in new legislation likely to be passed in 1992.

C Business Day incorrectly reported yesterday that the NMC had recommended that the LRA be extended to include farmworkers.
Unions cool on farmhands’ deal

JOHANNESBURG — Trade unions yesterday expressed reservations over the National Manpower Commission’s (NMC’s) recommendation that farmworkers not be granted the right to organise themselves in terms of the Labour Relations Act (LRA).

The Food and Allied Workers’ Union (Fawu) and the National Union of Farmworkers (NUF) both cautiously welcomed NMC recommendations that basic working conditions and unemployment benefit requirements be extended to farmworkers.

The Fawu said the recommendations were “a step in the right direction”, but as long as farmworkers were without the “organisational protection” afforded to industrial workers, the new provisions were no guarantee their conditions would improve.

Under the Basic Conditions of Employment Act (BCEA), SA’s 1.4 million farmworkers will have statutory maximum working hours, prescribed meal intervals, overtime pay, annual and sick leave, and contractual protection.

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The NMC is expected to report early next year on extending the LRA and Wage Act to farmworkers.
Comment on
impact of
(A)
Acts sought
Staff Reporter

National Manpower Commis-
sion (NMC) acting chairman Dr
Frans Barker has invited sub-
misions regarding applications
of the Labour Relations Act
(LRA) and the Wage Act to
farm workers.

This follows instructions by
Manpower Minister Eln Louw to
the NMC in June to investigate,
report on and make recommen-
dations in regard to expediency
of the LRA and Wage Act, as
applicable to farm employees.

The NMC should report to the
Minister before the end of April,
Dr Barker said.

Farm workers are at present
excluded from collective-barg-
gaining structures and the dis-
pute-settling mechanisms of
the LRA.

This implies that the indus-
trial court has no jurisdiction
over farm workers and that the
term “unfair labour practice”
does not apply to them.

In addition, farm workers
may not strike legally.

Dr Barker said the NMC had
not yet formulated a point of
view regarding the Acts, and
the invitation for submissions
was to guide the NMC in this
regard.

The NMC has already made
certain recommendations to the
Minister regarding the Basic
Conditions of Employment Act
of 1986, the Unemployment In-
surance Act of 1965, and agri-
industries. The Department of
Manpower is publishing these
recommendations simultane-
ously for comment,” he said.

The NMC had constituted, as
part of its investigation, a farm
workers’ committee that repre-
sented employer and employee
organisations involved in agri-
culture as well as various legal
representatives, he added.

Dr Barker said the commit-
tee had compiled a working
document that contained back-
ground information and alter-
native approaches regarding
the possible application of these
Acts to the agricultural sector.
Labour relations issues lead the field in national negotiations

MATTHEW CURTIN

problems were solved. This was after President F W de Klerk had said in June government would not be able to promulgate the amendments this year as originally intended.

The working party he commissioned involving employers, unions and the National Manpower Commission (NMC) provided the goods in the end, with the bonus of Cosatu’s decision to rejoin a reconstituted and revitalised NMC. The minute included an in-principle commitment to bargaining rights for all workers and laid out the processes by which the principle would be implemented regarding the public sector, farm and domestic workers.

Cosatu’s Geoff Schreiner said in November that while the changes to the LRA were significant, unions had only the freedom to strike, and without the right to strike they were effectively reduced to “collective begging.”

His comments were a sign of the debate in Cosatu on a workers charter and Labour’s determination to play an integral role in constitutional talks.

In debating some of the thornier issues unions faced within their own constituencies, the SA Clothing, Textile and Allied Workers Union led those questioning the practicability of Cosatu’s long-standing commitment to a national minimum wage, an issue on which the federation is still to take a definitive stand.

Sactwu union said industry-wide minimums were desirable; an obligatory wage of R700 a month could bankrupt the textile industry.

Commenting on the outcome of the workers’ charter conference in November, Cosatu general secretary Jay Naidoo said delegates agreed on the principle of freedom of association but also resolved the closed shop was an acceptable form of union activity “providing it was democratic.”

Unions agreed on issues such as the right to strike free from interdicts, to participation in all state structures in the interests of members, and the right to take part in economic planning.

Package

Other developments showed the convergence of employer and worker opinion with Anglo American and the South African Mineworkers setting the pace with a series of agreements addressing critical issues in the mining industry.

In early December they signed a retrenchment agreement at Anglo’s Pregold South mine designed to minimise job losses in an industry hit by rising costs, falling ore grades and a low gold price. The package not only saved about 3,000 jobs through miners accepting extended unpaid leave periods but demonstrated Anglo’s appreciation of growing union concern for job security, and the NUM’s appreciation of commercial structures facing gold mining...
Stayaways: Court in crossfire

DURBAN — The Industrial Court is caught-up in a complex tangle of political sympathy and industrial responsibility in reviewing the dismissal of workers involved in political stayaways, says Natal University lecturer D Grant.

Writing in a recent issue of the Industrial Law Journal, Grant said political stayaways had become a popular and effective tool for disenfranchised South Africans to convey their dissatisfaction with state policies and to bring political demands to the fore.

"The need to find new forms of political expression has not left the industrial arena untouched and in the recent past the workplace has become a crucial outlet for political protest."

"Apart from the economic costs, political stayaways may frustrate employers and lead to worsening relations between the employer and participating employees."

Grant said that while expressing sympathy for the plight of the disenfranchised, the court had at times disapproved of this form of political protest, but had shown a reluctance to conduce the dismissal of workers caught up in political unrest.

He referred to a number of Industrial Court decisions where the court had, in deciding whether or not to take part in a stayaway, considered workers' fears for their own safety in deciding whether or not to take part in a stayaway.

"This approach recognises that the stayaway is not an act of deliberate absences on the part of the individual employee," Grant said.

The stayaway is a collective action over which the individual employee has very little control.

"Employees who wish to work, or do not support the call for the stayaway, may be prevented from doing so by tension in the township in which they live and the possibility of intimidation."

Most employers, he said, had learned to accept the inevitability of political stayaways and had introduced a number of strategies to deal with them.

These included: the principle of no work, no pay, the buying of days where an employee had to work on specified days to compensate for days absent, and recognition of established stayaways, such as June 16, as paid holidays.

Dismissal, Grant said, was the most drastic response to political stayaways.

The court, in exercising its discretionary power to grant reinstatement, had to take into account all relevant factors.

These factors included the length of service of the employee and his/her employment prospects.

Grant said that when first faced with the dismissal of participants in stayaways, the courts had tended to evade the substantive question of the legitimacy or legality of the stayaway and based their decisions on procedural aspects or mitigating factors.

"Political stayaways will remain a feature of SA labour relations in this period of political uncertainty and unrest," he said.

Recent Industrial court decisions had recognised that the political aspects of employees' lives could not be disregarded.

"The ultimate solution has to be a political one," said Grant.
Change round the corner on the country's farms

New era is not always heralded by long periods of preparation. Sometimes they are heralded by creeping underlying changes that eventually make themselves felt in a manner of days. The farming sector is one of those, and the implications for the farmers and their workers are serious.

Critical
Farmers on the whole are not in principle opposed to trade unions, but they argue that, unlike commerce, industry and mining, farming is a business almost totally dependent on seasons and the weather. It cannot be switched off temporarily when subjected to a strike or stoppage, or stayaway action, and switched on again when disagreements have been settled.

If such actions, for instance, were launched as a critical production phase, such as planting a crop after the first rains, or harvesting fields of ripe wheat, a whole season's efforts may be wiped out in a matter of days. The farmers may face unemploy- ment, in which event all his workers would become unemployed with disastrous ripple effects on their families.

A case in point is the recent four-month strike by 2,500 citrus workers at the Nederlands Estate. Admittedly this is an isolated case and the estate is one of the biggest citrus-growing enterprises in the world, but it has been able to survive it, but you can imagine the consequences if similar actions were to be taken on the average maize wheat or fruit farm. It could simply end in a no-winners all losers situation.

The other labour laws of relevance are the Basic Conditions of Employment Act, the Unem- ployment Insurance Act and the Wage Act. Their application to agriculture will involve some practical problems.

Among prominent agriculturists who have expressed strong views on various aspects of the entire farm labour legislation must be outspokesman Chris de Toof, who farms just outside Paarl.

People in South Africa who claim that farm workers have no legal protection against exploitation simply seek solutions and they do not care for the real interests of those workers who, in fact, are fully protected by the common law, which prevails over all other laws.

"The Wage Act that determines minimum wages is unacceptable to agriculture. It negates all the principles of a free economic system, and I simply cannot see how it can be applied to farming."

"The Labour Relations Act, entering into commerce and industry, totally ignores the complexity and different nature of primary agriculture."

"Labour unions that they speak on behalf of farm workers are powerful in the past three years the Farm Workers Union has succeeded in winning only 10% membership on farms. Attempts to enforce this Act in agriculture will be counter-productive. It will benefit neither employer nor workers," adds Mr de Toof.

Pieter Braamveld, farming near Heidelberg in the Cape, says although not many farmers have had any formal training in personnel management, the overwhelming majority of farmers have been doing their best to provide the best possible working conditions for their workers.

Precious
This policy, adhered to through many years throughout the country, is the absence of legislation, has resulted in excellent labour relations on the farm. This precious relation- ship should not now be undermined by political and other actions, Mr Braamveld says.

A Natal farmer, Dave Wil- }
LABOUR LEGISLATION

1991
Farm labour law debate carries on

FARMWORKERS and farming communities stand only to lose from being
excluded from the provisions of labour legislation, argue some members of
the National Manpower Commission (NMC) committee investigating the
expediency of making the legislation applicable to farmworkers.

Satisfactory informal and formal provisions existed for ensuring the welfare of
farmworkers, and the Labour Relations Act (LRA) and Wage Act were not suitable
statutes for improving the farmworkers' position.

In a recent Government Gazette, the
NMC set out arguments for and against the
inclusion of farmworkers in terms of the
two Acts.

The views represented those of committee members, and not the commission itself, which includes SA Agricultural Union
and Cosatu representatives. Each made its respective concern at and support for the extension of the legislation to agriculture
clear last year.

Extending the two Acts would entrench farmworkers' rights to union organisation,
give protection against unfair labour practices and set statutory minimum wages.
Those on the NMC committee opposed to this said the move would undermine existing
farmworkers' fringe benefits, promote unemployment and disrupt farming communities through strike action.

They argued agriculture was an "essential service" on a par with electricity and
dairy services, the disruption of which could "not be allowed."

The present system of industrial councils and industrial courts would be unable
to cope with the strain of accommodating an influx of 1.4-million new workers.

MATTHEW CURTIN

They submitted the "traditionally close personal relationship" between farmers and their employees and common law provisions were already adequate guarantee of farmworkers' rights.

Proponents of extending the LRA and Wage Act argued that farmworkers were denied "access to the advantages that go with statutory recognition."

Trade union organisation in agriculture was far advanced regardless of the legislative provisions. Once extended these would foster greater unionisation and improve employer/employee communication in the sector, the standard of living of farmworkers, and provide mechanisms for addressing the disputes and grievances of farmworkers. These arguments echo the findings of the Wiehahn Commission.

The difficulties facing the NMC in recommending that farmworkers be covered by labour legislation were demonstrated in its failure to achieve a unanimous recommendation with regard to agrifood workers, originally scheduled to be included in amendments to the LRA.

The NMC concluded by making alternative recommendations, one of which had majority committee support, the other proposed by Cosatu.

Cosatu argued farming activities employing more than 100 workers which were of an industrial character — canning, forestry, lumber and plantation operations — should be included in the scope of the LRA.

The majority standpoint proposed the status quo be maintained until the NMC had completed its investigation of the extension of the LRA to all farmworkers.
LABOUR

Major resistance likely to new deal for farmworkers

The extension of fundamental workplace rights to farmworkers was a "definite gain" but was likely to hit major resistance from "unenlightened" farmers, a legal expert and member of the National Manpower Commission's farmworkers' subcommittee warned this week.

Draw Bosch was commenting on NMC proposals for the extension of the Basic Conditions of Employment Act (BCEA) to agriculture, published for comment last month. Amendments based on the proposals, as well as extending the Unemployment Insurance Act to farms, will be tabled during the coming parliamentary session. They will affect an estimated 65,000 farmers employing 1.3-million workers.

The document is the product of hard bargaining and compromise, largely between the SA Agricultural Union and Cosatu, which sat on the subcommittee. In a unique move aimed at securing Cosatu's involvement in the final report, subcommittee members attended full NMC deliberations and were given voting rights.

Lining up with Cosatu on most issues was Labour Party MP Pret Meyer - the LP, a largely rural party, is clearly sharing up its political interests - and Seccola vice-chairman Bokkie Botha.

Bosch said that by regulating such issues as overtime, public holidays, annual leave, sick leave and notice, the proposals recognised the need to shield farmworkers in their day-to-day work situation. Such rights were historically denied on many farms. Of equal importance was the BCEA's ban on victimisation for union activities, a potential spur to unionisation in a sector notoriously difficult to organise.

Also envisaged is a ban on the employment of children under 12 and tough controls on employment between 12 and 15. This is limited to 90 minutes on a school day or five hours at other times, with written parental permission and if the farmer registers with the Manpower Department.

In the report, Cosatu dissented from this, arguing that the BCEA's general 15-year age limit should also apply on farms. Other key compromises and changes to the current Act included:

- A 48-hour working week, with the possibility of a further four hours by agreement for not more than three months in a year, and a corresponding reduction later in the year.
- Protecting farmworkers under the Basic Conditions of Employment Act is a step in the right direction but could meet resistance from farmers, reports DREW FORREST.
- The SAAU argued that the seasonal nature of farming ruled out the BCEA's current 46-hour limit.
- One day's unpaid leave in return for compulsory Sunday work, and double time for more than five hours' work on a Sunday. Sunday work is currently voluntary in terms of the BCEA.
- Reasonable notice for a fired worker on the cancellation of housing or land use rights. These commonly form part of a farming wage package.
- A ban on victimisation of workers who discuss conditions with others or refuse an order in breach of the Act.

The NMC accepted, on Cosatu's urging, that discrimination should also be outlawed, but decided that the issue required further investigation. It was also split on Cosatu's call for a ban on unilateral changes in employment and dismissals in anticipation of new law.

- The payment of piece work at permanent worker rates. This clause was resisted by the SAAU, which argued for regulation by private agreement.
- Civil remedy for breaches of the Act, which currently provides only for prosecution.
- The registration of farm labour contractors. Such registration is only provided for under the LRA.

Isolating defects in the proposals, Bosch stressed that farm labour contractors, often ordinary workers or rural chiefs, tended to be "men of straw" or difficult to trace. Registration needed to be coupled with a cash deposit, to ensure claims could be met. And farmers who used unregistered brokers should themselves be liable - a Cosatu proposal voted down by the NMC.

Bosch also stressed that the effectiveness of any new legislation turned critically on Manpower Department enforcement. Maximum penalties were small - a R1,000 fine and/or 12 months' jail, or double this in the case of victimisation or child labour abuses - and were rarely imposed.

He added that the proposed civil remedy could be beefed up by "civil fines" for breaches of the Act, in favour of aggrieved workers who otherwise had little to gain by court action.

Soon to be protected ... NMC proposals extend basic workplace rights to farmworkers for the first time

Photo: AFRA...
Diller, Idaho. Willow Valley

Worshiping the same God but worlds apart

Focus. Weekend. Aug 1991. 1

0

Improvise Homestalls. The world's number one, 500

The Willow Valley Retreat

Join the Willow Valley Craze. Get the Best of the

Enforcement of Rights: a Major Problem

[Image of a map or diagram related to rights enforcement]
Steps to protect domestic workers under consideration

THE National Manpower Commission is inviting submissions on possible measures to protect domestic workers in private employ.

Acting commission chairman Frans Barker said in a statement yesterday domestic workers had few channels to challenge unfair dismissal, settle disputes or raise grievances.

Barker’s announcement follows an instruction last June by Manpower Minister Els Louw to the commission that it should investigate and make recommendations on the matter.

Barker said domestic workers were currently excluded from the Labour Relations Act, the Basic Conditions of Employment Act, the Wage Act, the Unemployment Insurance Act and the Workmen’s Compensation Act.

There were practically no statutory minimum conditions of employment for domestic workers and they were further excluded from the social security benefits provided for by the Unemployment Insurance and Workmen’s Compensation Acts, Barker said.

He warned, however, that including domestic workers under existing labour legislation should be approached with circumspection.

Inappropriate legislative provision could lead to increased unemployment, while summary inclusion would in some instances not provide appropriate protection and meet the specific needs of domestic workers and their employers.

Barker said a domestic worker committee consisting of representatives from women’s organisations, trade unions and legal experts had been formed.

The committee had compiled a working document containing background information and alternative approaches regarding the inclusion of domestic workers within the scope of labour legislation. This reflected the views of the individuals on the committee and did not represent a government or commission position, he said.

Excerpts of the document would be published in the Government Gazette tomorrow.

The commission is inviting submissions on the alternative approaches mentioned in the document, Barker said.

Submissions should be submitted by February 28.

VERA VON LIERSE
Political hopes boosted strike spirit
Cosatu rejects argument to bar domestic workers from LRA

COSATU yesterday rejected arguments contained in a National Manpower Commission memorandum that domestic workers be excluded from the Labour Relations Act (LRA), saying this would "again leave domestic workers at the bottom of the labour pile."

However, the federation described the commission's investigation into extending legal protection to domestic workers as the first step towards giving them full worker rights.

Cosatu was responding to a working document produced by a commission subcommittee on the possibility of extending the LRA and other legislation to include domestic workers.

Excerpts from the committee's working document were published for comment in the Government Gazette last week. The committee did not make any findings, but contained arguments for and against the extension of labour laws to domestic workers.

Cosatu, together with women's organisations, legal experts and the SA Domestic Workers' Union, contributed to the subcommittee.

Cosatu warned that not all the views expressed in the document represented those of domestic workers or its own. Arguments against extending the LRA and other Acts to domestic workers which were based on administrative problems or the special relationship between domestic workers and employers were invalid, Cosatu said.

It was argued in the document that the LRA and other Acts should not be extended to domestic workers because the Small Claims Court provided for courts to hear civil claims and related matters by them.

It was also stated that employers' opposition to the additional administrative burden created by the LRA could result in mechanisation and large-scale dismissals.

In its statement, Cosatu criticised the proposal that domestic workers should be covered by separate legislation. It would ensure they remained "second-class workers."

The document further suggested domestic workers be covered by a separate domestic workers Act, which would include those parts of the LRA and Basic Conditions of Employment Act relevant to domestic workers. Another option would be to include domestic workers under the LRA but with additional provisions for the "domestic sector's" special circumstances.
Bill ‘result of two years of negotiation’

Political Staff
AFTER two years of negotiations between the South African Employers' Consultative Committee on Labour Affairs, the Congress of South African Trade Unions, the National Council of Trade Unions and the State, the Labour Relations Amendment Bill has come before parliament.

Five hours have been set aside for the debate, which finishes today. The bill is likely to be supported by all parties except the Conservative Party.

The bill has 15 aspects, comprising three amendments to the existing law, three deletions and nine new provisions.

The Minister of Manpower, Mr Els Louw, said bottlenecks in a draft of the bill had been removed. "Saccola, Nactu and Cosatu together for discussions. They suggested interim ideas to address the most topical problems pending a consolidation of the law on labour relations."

The bill was an honourable attempt to bring employers, employees and the State closer together to promote a climate of mutual appreciation and joint responsibility. Mr Louw said already it seemed that a new dispensation was developing.

Mr Frank le Roux (CP Brakpan) said the bill showed that African National Congress, the SA Communist Party, Cosatu and Nactu were already operating as an interim government.

The CP was not prepared to pass laws while it had a pistol held to its head. The bill showed capitulation in favour of ANC deputy-president Mr Nelson Mandela, the ANC and the SACP.

Dr A J G Oosthuizen (NP Alberton), chairman of the Joint Committee of Education and Manpower, said there had been more comment on the bill than on any other piece of labour legislation in the past five years.

Mr Peter Gastrow (Durban Central DP) said the bill was an example to other government departments to bring into government interested bodies not in parliament.

"This bill shows what interim administration is about," he said.

For parliament to pass laws which were legitimate, they needed to have the support of people affected by them. Procedures had to be worked out to have representation of people outside parliament brought into the process of law making, Mr. Gastrow said.

Mr Sathie Naidoo (Independent Durban Bay) said all members of the House of Delegates supported the bill. But it was sad that farm workers and domestic servants were excluded.
No finality on labour changes

THE controversial Labour Relations Amendment Bill was by late yesterday still being debated in Parliament. The Bill addresses union objections to certain aspects of the 1988 amendments, that sparked outbreaks of shopfloor unrest.

Speaking in the House yesterday, the Minister of Manpower, Mr E. Louw said the amendments should be seen as an "honest attempt" to bring together employees, employers and the State.

"It is clear that the best results can be achieved when all the parties involved can provide solutions to problems which affect worker/employer relations," Louw said.
Farmworkers may benefit

Farmworkers in South Africa could get full labour rights by next year.

Currently estimated at 1.3 million, farmworkers do not benefit from the four main labour laws - the Basic Conditions of Employment Act, the Unemployment Insurance Act, the Labour Relations Act and the Wages Act.

Amendments to these laws have been submitted to include farmworkers, the Ministry of Manpower said yesterday.

When the Acts are passed, farmworkers will, in terms of the Unemployment Insurance Act, qualify for payment in the event of unemployment after a period of contributing to a fund.

When the Basic Conditions of Employment Act is amended, the normal working hours for a farmworker will be 48 hours a week, and those of herders 50 hours. Farmworkers can work nine hours and 30 minutes a day.

The amended Bill also provides, among others, that a farmworker will get two weeks paid leave a year, and 30 days sick leave in a three-year cycle.

The new Labour Relations Act provides for the settlement of disputes between farmworkers and employers.

The Wages Act has been amended in such a way that it does not prescribe a minimum wage.
Debate on labour Bill nears climax

Political Staff

After two years of negotiations between the South African Employers' Consultative Committee on Labour Affairs (Saccola), the Congress of South African Trade Unions (Cosatu), the National Council of Trade Unions (Nactu) and the State, the Labour Relations Amendment Bill came before Parliament yesterday for debate.

Five hours have been set aside for the debate, which finishes today. The Bill is likely to be supported by all parties except the Conservative Party.

The Bill has 15 aspects comprising of three amendments to the existing law, three deletions and nine new provisions.

Elz Louw, Minister of Manpower, said bottlenecks in the drafting of the Bill had brought Saccola, Nactu and Cosatu together for discussions. They suggested interim ideas to address the most topical problems, pending a consolidation of the law on labour relations.

The Bill was an honourable attempt to bring employers, employees and the State closer together to promote a climate of mutual appreciation and joint responsibility, Mr Louw said. Already it seemed that a new dispensation was developing.

The best results were reached when employers and employees arrived at solutions to problems for themselves.

The proposals were the result of two years of negotiations and showed that conflict was best handled through discussions and seeking for consensus, Mr Louw said.

Mr Frank le Roux (Brakpan CP) said the Bill showed that the ANC, SACP; Cosatu and Nactu were already operating as an interim government. The CP was not prepared to pass laws while it had a pistol held to its head, he said. The Bill showed capitulation in favour of ANC deputy president Nelson Mandela, the ANC and SACP. Dr AJG Oosthuizen (Alberiton NP) chairman of the Joint Committee of Education and Manpower, said more comment was received on the Bill than any other piece of labour legislation in the past five years.

Peter Gastrow (Durban Central DP) said the Bill was an example to other government departments to bring into government interested bodies that were not in Parliament.

"This Bill shows what interim administration is about," Mr Gastrow said. For Parliament to pass laws that were legitimate, they needed to have the support of the people affected by them. Procedures had to be worked out to have representations of people outside Parliament brought into the process of law making, Mr Gastrow said.

The Bill did not represent the first prize for Saccola, Nactu and Cosatu, and neither would cheer the Bill as it was only their second prize.

The Bill was a compromise, and that is what legislation should be about — a compromise between different interests to promote the broad interests of all those involved in a specific area, Mr Gastrow said.

Sathie Naidoo, Independent Member of the House of Delegates for Durban Bay, said all members of the HoD supported the Bill. But it was sad that farm workers and domestic servants were excluded from the Bill, he said.

Parliament has divided into two committees to consider legislation this week. The other chamber was considering the Legal Aid Amendment Bill, the Maintenance Amendment Bill, the Sheriffs Amendment Bill and the Judicial Matters Amendment Bill.
VITAL TO SA's PROSPERITY
Sound Labour Relations

Politics

Wendy Bill

Labour Relations

Cape Town, Thursday, February 12, 1991

POLITICAL

VITAL TO SA’s PROSPERITY

LABOUR RELATIONS

POLITICS
Conservative Party fights Labour Bill

DESPITE an onslaught from the Conservative Party, a Bill amending the Labour Relations Act is being discussed today in Parliament.

The Conservative Party has called the Bill a "capitulation to Cosatu" which puts a gun to the Government's head.

However, most other Members of Parliament have expressed support for the Bill, according to Mr Peter Gastrow, the Democratic Party's spokesman on Labour.

Historic

It is scheduled for discussion at an usual meeting of the Joint Standing Committee on Education and Manpower. It will subsequently be put to a vote by Parliament as a whole.

The Bill, the first to emanate from an agreement between the Congress of South African Trade Unions/National Council of Trade Unions and the South African Employers' Consultative Committee on Labour Affairs, is seen as historic.

The Bill calls for the Labour Relations Act of 1956 to be amended. It also seeks the following:

* To return to the definition of "unfair labour practice" used before a 1988 amendment.
* To extend the provisions of the Labour Relations Act to certain off-shore operations within South Africa's oceanic borders;
* To allow state organisations to be registered as a union;
* To restrict the granting of interdicts or other court orders during strikes and lock-outs;
* To mandate that such interdicts and court orders, when warranted, be granted only after 48 hours notice by the applicants unless employees have been warned of a labour action 10 days in advance, in which case five days notice by the applicants would be required;
* To dispense with bureaucratic formalities currently required to refer a dispute to an industrial council and apply for the formation of a conciliation board;
* To extend the period in which such actions can be taken from 90 to 180 days,
* To eliminate the requirement of a deadlock for such actions to be taken;
* To make routine the formation of a conciliation board when an industrial council is not performing adequately;
* To facilitate representatives of unregistered trade unions or employers' organisations sitting on conciliation boards so that to do so they only need present a certificate of compliance with the Act;
* To allow parties in a labour dispute to seek recourse from the Industrial Court within 90 days if an industrial council or conciliation board is making no headway;
* To give the Industrial Court the right to determine alleged unfair labour practices.

The Bill is expected to become law within days, ending more than three years of controversy.

The CP has proposed amending the Bill, but the feeling close to Parliament is that it will go through as tabled.
New LRA Bill ‘a triumph’ for trade unions

Despite protests from the Conservative Party, the Labour Relations Amendment Bill tabled in parliament this week has been hailed as South Africa’s first ‘post-apartheid statute’, reports DREW FORREST.

The fruit of an arduous three-cornered process involving employers, black unions and government, the Bill has been termed South Africa’s ‘first post-apartheid statute’.

Key Cosatu LRA negotiator Marcel Golding slammed Conservative Party moves to “delay and obstruct” the Bill and described as “nonsense” CP claims that Cosatu/Nactu/Sacola had subverted the sovereignty of parliament by holding a gun to the state’s head.

“The Bill is not simply the Saccola Accord,” he stressed. “The accord was modified in talks with the government and by the parliamentary standing committee.” White labour was represented on the National Manpower Commission and had ample opportunity to make independent representations, he added.

“What the CP has not understood is that legislation cannot work without the consent of the major players who must live by it.”

Four clauses have been referred back to the standing committee following CP objections. It wants the status quo on unfair labour practices and racial registration retained, and rejects the 48-hour notice period for interdicts on wildcard strikes.

However, Golding said he was confident the Bill would go through without substantial amendments when it came to the vote, probably this week.

Golding listed seven major advances in the legislation:

• Strikes and lockouts were removed from the unfair labour practice definition
• Unions had to give a minimum 10-day notice of a lawful strike and employers five-days’ notice of a court challenge to strike action. In the past, the courts had routinely granted strike interdicts without hearing the union case, he said
• Racial criteria for union registration were scrapped
• Official conciliation procedures were simplified
• The presumption of union responsibility for illegal strike damages was scrapped
• Unions with public and private sector members could now register
• The LRA was extended to South Africa’s continental shelf, meaning that offshore oil rig workers, for example, were covered.

Labour’s short-term aim was the repeal of the 1988 LRA amendments, and the Bill substantially achieves this. And although Cosatu/Nactu’s broader demands — notably the extension of the LRA to all workers and the revamping of the labour appeal system — remain on the agenda, moves are underway to address them.

Golding said he expected talks on a new public service labour deal and National Manpower Commission deliberations on farm and domestic labour to bear fruit this year. Approaches had also been made to the Justice Department on the revamping of the Labour Appeal Court.

He emphasised that in the “Labour Minute”, the state had pledged not to pass new labour law without consultation.

At its central executive committee meeting at the weekend, Cosatu agreed to intensify the campaign for full rights for farm, domestic and state workers. It also stressed that the public service negotiations should be widened to include the entire public sector.
Passing of new labour law is widely welcomed

The Labour Relations Amendment Bill was passed by Parliament yesterday after two-and-a-half years of intensive negotiations between employers and trade unions.

The Bill translates into law the Cosatu-Nactu/Saccola (CNS) agreement which aimed at addressing problems with the 1988 amendments to the Labour Relations Act (LRA).

All parties to the agreement yesterday welcomed its passing.

Its most important features include the restatement of the pre-1988 definition of an unfair labour practice and removing from the Industrial Court the power to interdict lawful strikes and lockouts.

The Bill also limited the court's ability to grant interdicts without 48 hours notice to the respondent except in special circumstances and extended the time limits for referring disputes through official channels.

Anton Roodt, chairman of the employer federation Saccola, said the Bill had removed labour legislation from the arena of workplace conflict.

Roodt said the Bill dealt with interim amendments to the LRA pending the comprehensive consolidation of the Act currently being undertaken by the National Manpower Commission.

Saccola would seek to have further amendments incorporated at the earliest available opportunity.

Roodt said Saccola was now looking forward to constructive interaction between employers, trade unions and government in developing generally accepted labour law through the National Manpower Commission.

Mobilisation

NUM assistant general secretary Marcel Golding said yesterday the passing of the Bill brought to an end three years of intense mobilisation by Cosatu.

He described the Bill as being the first piece of legislation formulated outside Parliament.

The Bill, Golding said, indicated that sustained mass action, together with constructive negotiations with employers and government, could bring about significant legislative reform.

He said the Bill brought to an end the first phase of Cosatu's campaign to effect labour rights for all workers in SA.

Among other issues, Cosatu would now concentrate on extending union rights to farmworkers, domestic workers and public sector employees, and restructuring the National Manpower Commission and the Labour Appeal Court.

Nactu general secretary Cunningham Ngcukana said yesterday the Bill was a victory for workers who had sacrificed jobs and livelihoods in defence of the rights of trade unions.

Ngcukana emphasised that the Bill, as envisaged in the CNS-accord, had been translated into law as an interim measure.

He said the question of the Labour Appeal Court still needed to be addressed and parts of the CNS-accord had not yet been legislated.

BILLY PADDOCK reports that Peter Gastrow (DP Durban Central) said yesterday in Parliament the passing of the Bill was an example of the way all laws should be enacted.

The CP said in Parliament the passing of the Bill was once again an illustration how government, the National Party, the National Manpower Commission and Saccola had bowed to pressure from the ANC and Cosatu/Nactu.
Passing of labour Act seen as worker victory

Political Staff

CAPE TOWN — Parliament yesterday passed the Labour Relations Amendment Act. This brings to an end two years of tough negotiations between the Government, Saccola, Nactu and Cosatu.

The Act is regarded as an attempt to bring employees, employers and the State closer together to promote a climate of mutual appreciation.

Minister of Manpower Ell Low said this week.

Saccola spokesman AK Roodt said it was “an event of considerable significance not just for labour relations but for the process of negotiation”.

Cosatu’s Neil Coleman said yesterday the passing of the Act was a victory for workers.

Nactu general-secretary Cunningham Ngakane said: “The Act is a victory for the workers who sacrificed jobs and livelihood in defence of the rights of trade unions and workers.”

He said the inclusion of farmworkers, domestic and public-sector workers was still on the agenda and this meant that South Africa was still a long way from acceptable international standards, but the first step had been taken.
THE LABOUR Relations Amendment Act was yesterday approved by Parliament and now only awaits the signature of State President FW de Klerk for it to become law - a mere formality.

'This brings to an end two years of hard negotiations between the government, the South African Employers Consultative Committee on Labour Affairs (Saco), and trade union federations, Nactu and Cosatu.

The Act is an honourable attempt to promote a climate of mutual appreciation, the Minister of Manpower said earlier this week.

Responding to the announcement, Cosatu's Mr Neil Coleman yesterday said it was a victory for workers.

Coleman added that it was this was only the beginning..."
UNDOING THE DAMAGE

McGREGOR'S ECONOMIC ALTERNATIVES
edited by Anne McGregor (Juta, 393pp. R34.95)

This book about SA's economic problems is divided into five parts. I propose to give most of my attention to the massive contribution of Azar Jammie, after commenting briefly on the others.

Unemployment, poverty and the informal sector are linked in Bobby Godsell's contribution, which is both penetrating and compassionate. In his treatment of the informal sector he warns against expecting too much of its potential — and also on the sort of mistakes bureaucrats might all too easily make in attempting either to assist or regulate it.

Prof Laurence Harris is primarily concerned to explain and defend the economic strategy of the ANC. He offers a justification for its refusal to renounce the option of nationalisation. In his conclusion, he mentions the possibilities of the ANC's economic strategy: that the economy may face among others, fluctuations and in the price of mineral exports, oil price increases and losses of export markets due to worldwide recession. One of the strengths he sees in the ANC's mixed economic strategy is that it is designed to enable government to react effectively to such shocks. But hasn't it been shown that in governmental reactions to crises do further damage to the world economy and hence in the end to each of its components?

Robin and Guy McGregor deal with the factors which have led to grotesque concentration of the private sector. They argue that the Competition Board and statutes under which it operates have been ineffective in comparison with the controls that exist in the US which, rather surprisingly, they see as having succeeded. But worst of all has been what Jammie calls the enormous bottling up, through exchange control, of liquidity among the institutional giants. They have had little alternative but to invest their excess cash in SA equities.

Leon Louw's contribution is a powerful and comprehensive review of the superiority of the market. It includes a chapter entitled "A Dozen Popular South African Myths," relating to the supposed inability of the market to satisfy certain social needs. In every part of the world, what Louw calls "The World's First Global Revolution" is sweeping away the cobwebs of socialism and related fallacies. SA has the chance between prospering in tandem with this revolution or stagnating outside it.

The trouble with Louw's case is that the ANC has a seemingly easy answer why is free enterprise getting a hearing only now? Until the Seventies, the NP succeeded in directing the economy to produce the maximum advantage for its own clientele. Now the NP is demanding that a future black government should do as it says, not as it has done.

What Jammie shows in his contribution is the appalling, perhaps irreparable damage the NP has inflicted on the economy through around 4.5% on average, in the Sixties it increased to 5.5%, decreasing to 4% in the mid-Seventies. But in the Seventies a decline set in. In the Eighties the growth rate would have been less than 1% if one were to exclude an election year. The gold price has soared in the last year and made things look rosier for a while. During that decade, the ratio of investment to GDP fell steadily, with a consequent loss of competitiveness in international markets. Jammie shows by a table of comparison with other countries that what has been truly disastrous has been the performance of manufacturing — a sector of crucial importance, because from it the multiplier gets to work. Sanctions, though significant, have been a rather less important factor.

Jammie indicates the general lines on which we may hope to reverse the decline a leaner public service, lower levels of government spending and taxation, and above all the control of inflation. It is because of the inflationary implications of ANC policies that he challenges them head on. Inflation has in the past favoured the rich and impoverished the poor and will be certain, if persisted in, to produce the same result in the future.

BUYING BOOKS

Some books reviewed by the FM may not be readily available. If you have difficulty obtaining a title from a bookshop, we suggest you contact the publisher's representative. The telephone numbers for the book reviewed this week (code 011) are:

- Juta — 23-4810.

Godsell: don't expect too much of 'informals'

Jammie: an enormous history of distortion

Radford Jordan
New LRA Bill ‘a triumph’ for trade unions

The Labour Relations Amendment Bill, tabled in parliament this week, was a triumph for organised labour and particularly for its strategy of combined mass action and negotiations, the Congress of South African Trade Unions said this week.

The fruit of an arduous three-cornered process involving employers, black unions and government, the Bill has been termed South Africa’s “first post-apartheid statute”.

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At its central executive committee meeting at the weekend, Cosatu agreed to intensify the campaign for full rights for farm, domestic and state workers. It also stressed that the public service negotiations should be widened to include the entire public sector.
Relations in the 90s

Social contract will
dominating labour

Co-determination of the economy down to the individual companies.
Labour Act to benefit workers

By IKI MOTSAPI

THE Congress of South African Trade Unions has begun a campaign to persuade homeland governments to accept the revamped Labour Relations Act.

The Act was passed in Parliament last week.

Mr Neil Coleman, information officer of Cosatu, said the acceptance of the Act by homeland governments would enable workers to fight for "their rights without fear of being arrested."

Success

Coleman was outlining the success achieved by the federation during its four-year-long fight to have certain amendments incorporated into the Act.

Cosatu, Naactu, South African Consultative Committee on Labour Affairs(Secola) and the National Manpower Commission met recently to review the Labour Relations Act. The meeting was dubbed "The Labour's Minute."

Coleman said the response from homeland governments had so far been very "favourable."
Labour laws need to be rationalised

LEADING labour relations expert Nic Wiehahn has called for SA to follow the example of Namibia, Transkei and KwaNdebele by rationalising its labour legislation.

Wiehahn said in an interview with the Bureau for Information he believed labour legislation could be revised and the eight labour Acts administered by the Manpower Department reduced to five.

Labour legislation, he said, had already been simplified in other countries including Namibia, Transkei and KwaNdebele.

"In these newly designed and simplified systems, state involvement has been minimised and the relationship between employer and employee emphasised."

"As a result, the importance of collective bargaining was accentuated, while the state's role was reduced to that of facilitator, guide and educator," Wiehahn said.

He said that simplifying labour legislation would benefit all labour relationships, including those between customer and businessman, employer and employee.

"These are currently under pressure due to the turbulence in our society, particularly in the political sphere," he said.

Wiehahn said last year's agreement on labour legislation between government, Sascoila and trade union federations Cosatu and Nactu was "definitely a step forward".

"It is also a positive step with regard to policy making and legislation in the labour field and beneficial to the relationship between government and the trade unions."

"The important issue is that this agreement will result in the broadening of industrial democracy. A much larger section of the trade union movement now has a greater responsibility regarding development in the labour field.

"When trade unions share the responsibility for labour development with government, they tend to move away from a radical and militant approach towards a more co-operative attitude to government and society."

Wiehahn said he conceded the amendments to the Labour Relations Act provided greater clarity on whether strikes should be allowed by defining a strike in terms of whether it was legal or illegal.

"However, I prefer the terms fair and unfair, because the new terms are very legalistic and imply court interference and a judicial decision. Other solutions to a labour dispute could be found where court or state interference would be unnecessary."

"Normally, a dispute arises between employers and employees, therefore solutions and remedies should be found by (those) involved."

Wiehahn said the state's role would decrease as constitutional progress was achieved, with more issues being debated by employer and employee. Public servants, who had been excluded from the formal system of industrial relations, would acquire more rights and would eventually have the right to bargain collectively.
Homelands split on labour legislation

THE Ciskei government has passed a Labour Relations Bill requiring compulsory registration of unions and the location of union head offices in the homeland, Cosatu revealed this week.

In a document released at its LRA press briefing, the federation said it appeared to have persuaded the homeland to delay promulgation until it saw Cosatu's proposals on the Bill.

It also said Lebowa had drafted a "problematic" labour Bill very similar to South Africa's 1988 LRA, but had asked Cosatu to comment on it.

Although its final aim is incorporation of homeland workers under the central state, Cosatu is pushing for labour law deals with homeland governments as an interim measure.

Other developments revealed in the document include:

- Following last year's mass protest action, Bophuthatswana had agreed to meet Cosatu on its controversial Industrial Relations Act.
- KwaNdebele had drafted a statute containing "a number of problems", but had asked Cosatu to participate in a Labour Advisory Council.
- KwaNguni, the most advanced of the homelands, was considering asking Pretoria if it could fall under South African law.
- Following last year's strike wave, QwaQwa had agreed not to change its pre-1988 LRA without consulting Cosatu.
Cosatu ready for 'phase two' of LRA campaign

BY DREW FORREST

CONFLICT is looming over the legal rights of farmworkers, as the Congress of South African Trade Unions gears up for "phase two" of its Labour Relations Act campaign.

At a press briefing following last week's enactment of the Labour Relations Amendment Bill, Cosatu's Geoff Schreiner announced the federation would be pressing for the inclusion of farmworkers in the LRA and Wage Act this session of parliament, and was considering a campaign on the issue.

The strategy flowed from the National Manpower Commission's rejection of Cosatu's proposals that the LRA be extended to "agribusiness" in last week's Bill, he said.

Cosatu would be meeting Sacola and the SA Agricultural Union — Schreiner described the latter as a "disagreement" in getting new law.

Official government reaction could not be obtained, but Manpower Department sources attacked the demand as "unreasonable" and "unrealistic". One stressed that the NMC report on farmworkers would only reach the minister at the end of April and that the legislative process might take a further six months. Parliament recesses in mid-June.

Commenting that the Cosatu demand could prejudice the NMC's findings, NMC chairman Dr Frans Barker added: "We will have to publish our recommendations — this is in line with the Labour Minute (of which Cosatu is a signatory) and only fair to the broader labour community."

Outlining the broad aims of phase two of the LRA campaign, Schreiner said it aimed to extend the Act to domestic, farm, state and homeland workers, secure new labour rights and overhaul the NMC.

The strategy was to argue in the NMC for farm and domestic workers to be covered by existing statutes, with special provision for their circumstances. In a document, Cosatu warns: "Our negotiations with the NMC will go nowhere unless there is a mass action on the ground.

Stressing the crucial role of LRA talks in the public service currently involved only Cosatu's health union, the federation would push for a broad public sector forum embracing postal, rail, municipal and teaching affiliates.

On new worker rights, Schreiner stressed that Cosatu would seek a decisive intervention in NMC thinking on the consolidation of the LRA. Demands include the full right to strike and picket, and organisational rights, such as automatic check-off, recognition and access for representative unions.

Cosatu proposals for a specialist labour appeal court which would expedite and cut the cost of appeals had been widely canvassed in the legal profession, and the federation was now wanting for the Manpower Department to set up talks with the Department of Justice.

On the restructuring of the NMC — "a critical issue which raises questions about a new, tripartite negotiating forum for all labour matters" — Cosatu wanted a commission representative of major players, with greater powers and the ability to range "beyond mere labour laws."

The life of the present NMC ends in April and Schreiner said he hoped negotiations would start before then. Cosatu would also look at restructing the Manpower Department itself with an eye to better enforcement of laws, particularly in the farm and domestic sectors.
specifically includes trade unions, employers' organisations, strikes and lockouts. Future amendments to the Act will be considered on the grounds of the investigation and recommendations.

(2) The Labour Relations Act, 1956, at present provides in section 17(12)(a) for the granting of costs orders according to the requirements of the law and fairness in the case of urgent interim applications for legal aid as well as in the case of section 40(9) determinations. The Act also provides in section 40(9)(c) for the granting of a costs order in the case of a section 43 (status quo) application, but it may only be granted by the Court "on the ground of unreasonableness or frivolity on the part of a party". In terms of section 17(21)(c)(v) of the Act the Rules Board may make rules "as to the taxation of bills of costs only".

Withholding tax on interest

5. Mr J J WALSHE asked the Minister of Finance whether the Minister of Finance had introduced a withholding tax on interest, if so, whether it was to be applied on foreign deposits or to be applied on foreign deposits, and whether it was to be applied on foreign deposits, and whether interest received by individuals, would have made a positive contribution to the encouragement of savings, and that the implementation of such a system could be accomplished after several obstacles had been investigated and eliminated. It was envisaged that the tax would be a final tax, at a low rate, deductible at source and payable to Inland Revenue.

The MINISTER OF FINANCE

(1) and (b)

As mentioned in the Budget Review of last year, the new tax on interest-bearing investments is very low or even negative. The Minister of Finance has decided that a withholding tax, imposed on interest received by individuals, would have made a positive contribution to the encouragement of savings, and that the implementation of such a system could be accomplished after several obstacles had been investigated and eliminated. It was envisaged that the tax would be a final tax, at a low rate, deductible at source and payable to Inland Revenue.

(2) As mentioned during the introduction, on 19 February, of the 1991 Appropriation
Unions pose ed dodged

THE Minister of Manpower, Mr E. Louw, has side-stepped a question on whether the government is to make trade unions liable for the actions of their members.

He said yesterday that the Labour Relations Act was being investigated. "Future amendments to the act will be considered on the grounds of the investigation and recommendations."
Cosatu to discuss 1991 campaigns

VERA VON LIERES

COSATU delegates from around the country will meet at the weekend to discuss the labour federation's 1991 campaigns programme which will include action on the issues of retrenchments, centralised bargaining and the Labour Relations Act (LRA).

Cosatu said in a statement about 300 delegates from various affiliates and regions would meet in Johannesburg.

Other issues to be discussed would include campaigns around Cosatu's demands for a constituent assembly and a living wage, literacy and a campaign for workers' rights in a new constitution.

Cosatu said the conference would also discuss various demands - including a 40-hour week, setting up a job creation fund and the retraining of retrenched workers.

Cosatu said it would be focusing attention on extending rights guaranteed by the LRA to public, farm and domestic workers.

The conference would discuss Cosatu's attitude towards a restructured National Manpower Commission and the Manpower Department's proposed labour code.
By SHARON SOROUR

Labour Reporter

TRADE union leaders – celebrating the promulgation of the Labour Relations Amendment Act – will now push for labour legislation to be extended to South Africa’s 1.5-million farmworkers.

Farmworkers, employed on the country’s 65 000 farms, are covered only by the Machinery and Occupational Safety Act and the Workmen’s Compensation Act and are regarded as being among the most exploited members of the labour force.

Legislation to extend the Basic Conditions of Employment Act (BCEA) and the Unemployment Insurance Act (UIA) to agriculture is in the pipeline.

Minister of Manpower Mr Ed Louw has indicated that it is likely that the proposed legislation will be dealt with during this year’s parliamentary session.

Hailed as victory

This follows the promulgation of the Labour Relations Amendment Act of 1997, which was made law by President De Klerk on Wednesday and comes into operation on May 1.

The Act contains wide-reaching features and has been hailed as a victory for employers and employees after more than two years of intense negotiations between employer body Saccola, the government and the two union federations, Cosatu and Nactu.

In December the government called for comment on proposals by the National Manpower Commission (NMC) to extend certain legislation to farmworkers, paving the way for significant improvements to their working conditions.

The proposals are based on the work of a special technical sub-committee, which included delegates from Cosatu, the South African Agricultural Union (SAAU), the Rural Foundation, the Labour Party, the NMC and two lawyers.

According to the labour journal IR Data, it seems that the NMC does not intend extending the legislation to agriculture on a “blanket basis”, but to restrict jurisdiction to agri-business – the sector where processes are more tertiary than processing, rehiring or packaging.

The logic is that this type of farming operation could be defined as a “factory without a roof”.

However, workers in corporate agricultural concerns like forestry and fruit packing have been unionised for some time, now with agreements being negotiated to a certain extent.

Even though these workers are not covered by the Labour Relations Act and therefore do not have the right to strike legally, there have been strikes in these sectors.

“And these have not been dealt with in any differently from a strike in industry,” IR Data reports.

If the Basic Conditions of Employment Act is extended to agricultural labour, there will be important far-reaching implications for Western Cape and other farmers – even those who have complied with the Labour Relations Act to a certain degree.

According to IR Data this is because the Act is, in essence, protective legislation governing matters including hours of work, leave and basic minimum wages.

“Hours of work are traditionally difficult to regulate in agriculture because of the seasonal nature of agriculture such as planting and reaping and the ability to combine these with the right weather.”

“Livestock, too, cannot be subject to controlled hours due to the unpredictability of illness, lambing, calving and the necessity to move water at short notice,” IR Data says.

Key recommendations

Some of the key NMC recommendations on the Basic Conditions of Employment Act include:

● Maximum ordinary working hours for farmworkers of 48 hours a week and 9.5 hours a day.

● To accommodate the seasonal nature of agriculture, farm workers and farm workers should be able to agree on four hours a week in addition to normal hours for up to three months annually without workers getting overtime pay.

● Payments in kind, use of land larger than a certain size, consumer goods, food and accommodation should be included in the calculation of wages. A list should be published stating the value of various types of goods and employers should not be allowed to make deductions from workers’ wage packages without consent.

● Workers doing piece work should be paid a minimum wage equivalent to that of permanent workers doing similar work.

● The NMC could not reach consensus on the employment of child labour in terms of the Basic Conditions of Employment Act, other than on a farm, it is illegal to employ a child under 15. The majority of committee members recommended that farm workers be allowed to employ children between 12 and 15 to do light work with provisos, including no work in school hours and registration of child labour with the Department of Manpower.
Labour Act delayed from taking effect

THE Labour Relations Amendment Act of 1991 published in the Government Gazette last week only comes into operation on May 1.

The Act, which was passed by Parliament on February 14, carried the signature of State President FW de Klerk - the required formality for it to become law.

But according to a spokesman from De Klerk's office, certain technicalities have to take place before the Act comes into operation.

He said: "Regulations accompanying the Act are drawn up by the Department of Manpower and they have to be approved, after which a proclamation document will be sent to Mr De Klerk for approval."

The proclamation document and the regulations will be published in the Government Gazette together with the commencement date of the Act.

Ministry of Manpower Press secretary Mr Johann Muller said the regulations would be published on April 22.

Reacting to an article in The Argus yesterday, Muller said the Act was not only a victory for the labour movement but for the tri-party negotiating team.

The Act translated into law the Cosatu-Nactu-Saccola accord, which redressed some of the problems attached to 1988 amendments to the Labour Relations Act of 1956.

Muller said: "It was a victory for negotiations, in the widest possible context, between Saccola, Nactu, Cosatu and the Government. That is how we hope to see all labour legislation negotiated."

The Bill had 15 aspects, comprising three amendments to the existing law, three deletions and nine new provisions.

The most important aspects of the Bill were the reinstatement of the pre-1988 definition of an unfair labour practice and removal of the power to interdict lawful strikes and lockouts from the Industrial Court.
Workers' Rights - unfair dismissals

In this series of articles we will look at labour laws affecting workers at the workplace. When we talk of laws we mean written or unwritten laws. Written laws are made in the apartheid parliament. Unwritten laws arise out of customs or practices recognised by the courts. An example of an unwritten law is the crime of murder, this crime is not described in any legislation of parliament. Most of the laws made by the present racist parliament were made to oppress us. Do you know of any laws which are oppressive?

Labour Relations Act

These are many labour laws affecting us as workers. Labour laws are the laws that affect us at the workplace. Most of us who are organised in COSATU and NACTU are probably aware of the Labour Relations Act (LRA). Maybe you are one of the workers who were affected by the downfall of the apartheid government. The LRA says that before an employer can dismiss a worker the dismissal must be fair. If dismissal is unfair then the dismissal is an unfair labour practice. The important question is when is a dismissal unfair?

Here is an example of an unfair labour practice:

Zodwa works at Edgars Supermarkets as a cashier. Her supervisor tells her to clean the area around the tills. Zodwa tells her supervisor that she is refusing to clean the area around the tills because that is not part of her job. The supervisor then calls Zodwa a lazy black woman and tells her that if she does not do her job she will be dismissed. The supervisor then steps on the supervisor and calls her a white racist. The supervisor then tells Zodwa that she has been dismissed and should take her bag and go immediately.

Requirements For A Fair Dismissal

Good Reason

The question to be asked is whether there was a good reason for Zodwa's dismissal. This question is usually asked by an employer. A good reason for dismissal is a reason that is not arbitrary or capricious.

Fair Procedure

The second question is whether Zodwa had a fair hearing. A fair hearing is a hearing in which Zodwa was given the opportunity to defend herself. A fair hearing is a hearing that is conducted in a fair and impartial manner.

Using Zodwa's case as an example, the following are the requirements for a fair disciplinary enquiry:

1. Reasonable Notice
   Before Zodwa was called to a disciplinary enquiry she must be given reasonable notice of the enquiry. It would be unfair if the employer told Zodwa to come to an enquiry and he only gave her an hour's notice. This notice is important as Zodwa must have the opportunity to prepare her case.

2. The Charge Must Be Stated in the Notice
   Zodwa must know what misconduct she is charged with. The manager might think that the misconduct is serious, but if he does not say this Zodwa might think that the misconduct is not serious and she might not be able to prepare for the charge.

3. Particulars of the Disciplinary Enquiry
   Zodwa must also be told the time and date of the disciplinary enquiry so that she can prepare for the inquiry.

4. Representative of Her Choice
   Zodwa must have the right to elect a representative of her choice to represent her at the enquiry. If she elects a representative who is not a qualified lawyer then that person will represent her at the disciplinary enquiry. If she does not have a shop steward she can ask any of her co-workers to represent her.

5. Right to an Interpreter
   Zodwa must have the right to speak in her home language and to have English or Afrikaans interpreted in her own language.

6. Witnesses
   Zodwa must have the right to call witnesses who will give evidence, if she wishes. Zodwa must have the right to call witnesses who may give evidence against Zodwa. The company can also have the right to call witnesses who will give evidence for Zodwa. If Zodwa and her representative have the right to take those witnesses questions, it is called cross-examination.

7. Unbiased Presiding Officer
   The presiding officer is the person who will hear the case and decide whether Zodwa should be dismissed or not. The presiding officer must not be personally involved in the case. He must be neutral.

8. Mitigating Factors
   Before the presiding officer takes a decision he must take mitigating factors into account. Examples of mitigating factors are Zodwa's years of service at the company, her past disciplinary record and her personal circumstances. Does she have children to support? Would she find another job? It will be unfair to base a decision on something which is not relevant to the case.

9. Right of Appeal
   Zodwa must have the right to appeal against her dismissal to a superior manager or the regional manager.

Industrial Court

If Zodwa's appeal is unsuccessful, she has the right to appeal to the Industrial Court. At the Industrial court a presiding officer will decide whether Zodwa's dismissal was fair or unfair. If the presiding officer decides that her dismissal was unfair, he can order her reinstatement to her job and she can receive some money. As there are certain legal procedures that have to be followed before a case is heard in the Industrial Court, Zodwa will need legal assistance. If Zodwa was a member of a trade union, she could request her dismissal to the union which would take it to the Industrial Court.

If she was not a member of a union she could instruct an attorney to assist her. As she would need money to pay the attorney she might not be able to instruct an attorney. There are certain organisations that might assist her.

1. Legal Resources Centre
2. Industrial Aid Society
3. Legal Aid Bureau

These organisations can provide legal assistance to workers who are dismissed.

Strike Action

The workers at the company may be so upset about Zodwa's dismissal that they could go on strike and demand the reinstatement of Zodwa.

Other Reasons for Dismissal

A worker could also be dismissed because of incapacity. An example of incapacity is the following:

Thabo is a switchboard operator and he lost his hearing. He therefore does not have the capacity to work as a switchboard operator. Does his employer have the right to dismiss him? Would this dismissal be fair? What do you think?

An excuse that you could do during your lunch hour is to ask the incident surrounding Zodwa's dismissal. You could also ask her disciplinary enquiry.

Workers’ Rights - unfair dismissals

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Labour 'at forefront of reform'

By SHARON SOROUR
Labour Reporter

Labour is at the forefront of efforts to bring about a new era of industrial relations in South Africa. This is evident from the recent changes in the country's labour laws. The new Labour Relations Amendment Act of 1994 has been hailed as a victory for the tri-partite negotiating team and will come into effect on May 1.

Mr. Louw, the Minister of Manpower, announced it in an interview with The Argus that apart from a few outstanding issues, such as extending protective legislation to farmworkers, domestic workers, and certain state employees, the system was close to reaching a standard that can be defended anywhere in the world.

The Act amends the existing Labour Relations Act of 1956. The revised Act covers a wide range of issues, including the definition of employers, employees, and the terms of employment. It also provides for the establishment of a Labour Relations Commission to deal with disputes and to ensure compliance with the Act.

Mr. Louw said the Act would introduce a more equitable framework for the resolution of disputes. He added that the Act would be a cornerstone of the government's efforts to improve the lives of workers in the country.

"We are committed to ensuring that workers are treated fairly and that their rights are protected," he said.

The Act also includes provisions for the promotion of equal opportunity in the workplace and the prevention of discrimination.

Mr. Louw said the government was determined to create a climate of mutual respect and understanding between workers and employers. He added that the government would continue to work with all stakeholders to ensure that the Act is implemented effectively.

The Act is expected to be enacted soon, and Mr. Louw said the government was confident that it would be a significant step forward in the country's efforts to improve industrial relations.

"We believe that this Act will contribute to the development of a more harmonious and productive labour market," he said.

Mr. Louw said the government was also committed to ensuring that the Act was implemented effectively. He added that the government would provide training and support to employers and workers to help them understand the provisions of the Act.

"We are confident that with the right support and assistance, workers and employers will be able to implement the Act successfully," he said.

The Act is expected to bring about significant changes in the country's labour laws, and Mr. Louw said the government was committed to ensuring that it was implemented effectively.

"We are confident that the Act will be a significant step forward in improving the lives of workers in South Africa," he said.

The Act is expected to be enacted soon, and Mr. Louw said the government was confident that it would be a significant step forward in the country's efforts to improve industrial relations.
A 'new era' dawns for militant black trade unions

By SHARON SOROUR
Labor Reporter

INDUSTRIAL action has cost more man days over the past five years than during the preceding 75, but trade unions have not only had a destructive impact on the economy, they have played a key role in restraining wages and penalising black workers, says industrial sociologist Dr Duncan Innes.

In the June Labour Brief he said the impact of unions on the economy during the past year had been 'significant', with more man days being lost because of strikes in 1990 than in any year since 1984.

He said: 'In no doubt some may wish to interpret this as evidence that unions have played a purely destructive role in the economic life of the country.

'However, if union actions have damaged the economy, they have also brought about a tolerable financial benefit to black workers, thereby playing a key role in redistributing wealth to important sections of the workforce.' But this period had not been without its costs to the workforce employment had slumped significantly in the formal sector while 1.4 million new workers had entered the labour market.

Many commentators argue that there was a direct relation between rising wages, improved working conditions and benefits for workers - which placed too big a financial burden on companies - and falling levels of employment. He said: 'Simply put, the argument is that rising wages place too big a financial burden on companies, which are then forced to retrench but this certainly cannot be viewed as the only cause of rising unemployment.'

The economic stagnation could be blamed on recessionary conditions of the post-independence period, high taxation, government expenditure rather than wage increases. Wage increases functioned best in an expanding economy, but in a recessionary period there was demand for labour and not in a situation of falling employment.

The loss of confidence and even alienation of workers has been a factor in the high levels of unemployment, but for trade unions as well.

Dr Innes said it was possible, however, that 1990 had ushered in a more constructive role in the relationship between employers and unions.

Referring to the historic Labour Relations Amendment Act (LRAA) - which was negotiated between employers, trade unions and the state - he said 1990 represented the dawning of a new era for black unionism as they were beginning to position themselves to influence future state and corporate policies from within.

A further by-product of the LRAA agreement was the Social Security Agreement for the purpose of ensuring social benefits as well as reducing government welfare and unemployment costs.

Referring to employers' resistance to the new South Africa, Dr Innes said the gap between the main black trade unions and the state was bridged with previous black union strategy of boycotting state institutions.

The age in which employers participated in strike structures without black union participation is over, he said.

Union would also move to increase their influence over the Industrial Court as well as over government welfare and unemployment insurance and training schemes.

There was the two roles of the dispute but there is an important constituency within both camps who share a common belief in the need for a mixed economy in South Africa, at least for the indefinite future.

However, even within these rules there are differences with anomalies favouring one in which the state sector dominates the private sector while employers favour the reverse.

But let there be no mistake of a new thinking emerging within the unions in terms of which a more participatory and co-operative approach may evolve, this does not mean that the hard bargainers and adversarial approach of the previous phase will magically disappear.

'On the contrary, unions will seek to gain through the reduction of the role in which they sought to do away with adversarial bargaining,'

Dr Innes said employers should always approach with 'trade-offs' where unions could be turned against one another.

'For example, unions will not be allowed to divert employers recognition of their right to participate in enterprise and industry decision-making. Employers have the right to demand from unions that agreed procedures should be respected and adhered to,' he said.

But the new strategy of participation did not mean that unions were likely to ease up on mass action in the immediate future.

Unions will continue to use mass action both as an entry and pressure on those they are negotiating with and in response to ANC campaign calls.

The ideal of a harmonious, non-relativist industrial relations environment was 'certainly not in the cards'.

'The next few years, in which a basis for more co-operative co-operation may be established, will not be immune from conflict.'
Lesotho mineworkers feeling gold pinch

WITH the gold price continuing to take a tumble on the world market, thousands of Basotho mineworkers have begun returning home from neighbouring South Africa.

The price plunge is said to have cost South Africa’s mining industry at least 50 000 jobs last year alone, and the trend is expected to continue for the rest of this year.

A retrenched miner who asked not to be named said he came home three weeks ago after working for only six months on the mines and had still not informed his wife that he had been retrenched.

“My wife would be shattered at hearing the news. We were planning to build our own house by the end of this year as we are still staying with my parents.”

At the beginning of 1990, the average number of Basotho mineworkers in South Africa was 103 040. By the end of February 1991, the figure had dropped to 95 551.

The decrease has rattled Lesotho government circles because of the economic repercussions for the country. — INTER PRESS SERVICE
New Bill cancels seven racist Acts

Political Correspondent

Discriminatory measures in seven Acts are to be removed by a new Bill tabled in parliament today.

The Further Abolition of Racially Based Measures Bill removes a number of clauses which make a distinction between different races or population groups and is in line with the repeal of the Population Registration Act.

However, a transitional measure in the Bill is intended to "temporarily maintain existing classifications in the population register".

The new Bill alters the:
- Workmen's Compensation Act by deleting references to blacks and Asiatics,
- Merchant Shipping Act, by deleting special arrangements for the property, diet and accommodation of "non-whites",
- Marriage Act by abolishing the provision for the appointment of marriage officers for particular population groups,
- Births, Marriages and Deaths Registration Act, by deleting special provisions for black and Indian immigrants and by bringing the Act into line with the repeal of the Population Registration Act,
- Unemployment Insurance Act, by deleting references to blacks and Asiatics,
- National Parks Act, by deleting the reference to "European"; and,
- Identification Act, terminating the inclusion of a person's race or population group in the population register, and placing the birth entry number on the certificate — which indicates race — with an identity number.
Cosatu pushes for 'minute' between NMC and Louw

By DREW FORREST

IN A move to give National Manpower Commission recommendations on labour law more teeth, the Congress of South African Trade Unions is to push for a "minute" between the NMC and Manpower Minister Ed Louw.

Cosatu's Geoff Schreiner said Cosatu envisaged a three-phase restructuring of the NMC—enabling changes in its composition, new, powerful and finally a revamped relationship with Louw. Some changes would be needed to the Labour Relations Act. "We are not looking to replace parliament's lawmaking function," he said.

Schreiner said there was already broad NMC agreement that the commission should comprise major labour actors, rather than hand-picked "experts", and "fair consensus" that it should be a negotiating forum on labour law and wider economic questions.

The bottom line for Cosatu was that it should not be purely advisory and that employers and unions should be proportionally represented.

Cosatu wanted state and private employers to form a single bloc—a proposal which had hit private sector resistance—and provision for the Manpower Department to express its views while negotiations were under way.

The life of the present NMC—which was due to expire on May 1—is to be extended to facilitate the restructuring process. Louw is expected to announce this in his budget speech in parliament today. The NMC's proposal, which Cosatu accepts, is for a four-month extension.
The manpower star who the left loves to hate

SUBJECTIVELY, I feel misunderstood — surprising words for one of the country's most powerful public servants. Quietly spoken and affable, it is hard to believe that Manpower director-general Joel Fourie is the man the black unions and left-leaning labour lawyers love to hate.

A mere 42, Benoni-born Fourie's comet-like ascent through the ranks of the civil service suggests unusual talents. A University of Pretoria law graduate, he lectured at the university and acted as a legal advisor to Iscor before joining the Manpower Department in 1985. Four years later, he was at the top of the greasy pole.

And yet his rise has been dogged by controversy — despite his self-effacing manner, few state officials have been so consistently under the media spotlight. He has been variously branded as an arch-conservative, devotee of deregulation, enemy of the industrial council system and sabboteur of labour law reform.

Employers pay tribute to Fourie's technical skills, but say he is not at home in the new era of hard bargaining over labour law. "He is a technocrat, not a negotiator," one commented.

Unions and their partisans are harsher, viewing him as the architect of the 1988 Labour Relations Amendment Act, now consigned to the dustbin of history by a legislative wrangle which followed two general strikes, a consumer boycott and a national overtime ban.

And while the LRA was being rewritten, in arduous union-employer negotiations which ultimately drew in the state, he was accused of blocking change and paying undue heed to minor players on the right of the labour spectrum.

He has been misrepresented, Fourie insisted in a rare face-to-face interview in his Pretoria office. "There are too many checks and balances for one person to play such an overriding role." The 1988 Bill underwent 130 amendments when it reached the standing committee of parliament, he pointed out.

He also dismissed suggestions that he was a sort of Swengali manipulating the relatively inexperienced Manpower Muster Ein Louw: "No politician worth his salt will listen to one person." His role in the 1988 unfair labour practice code — a major reform initiative — was no more than to implement National Manpower Commission (NMC) proposals in the light of comment, he stressed. He was adamant the department had a neutral role, testing law in the cauldron of public opinion and applying purely technical criteria in recommendations to its political bosses.

It is probably true that the 1988 law was a product of the times rather than the machinations of any one man. "It was drafted in the middle of the emergency; there were all sorts of pressures on government," Fourie remarks. And there is undeniable justice in his claim that of all state departments, Manpower has been most open to change.

At the same time, there is clearly a widening conservative-reformist divide within officialdom — specifically between Fourie's department and the NMC, the government's labour law advisor. On the LRA, and more recently the Basic Conditions of Employment Act and proposals for an unfair labour practice code, there are stark differences of approach.

The key flashpoint is the lawmaking process, rather than law itself — and opposition to the department appears to extend beyond the unions. Sources speak of tension between Fourie and NMC chairman Frans Barker, seen as an apostle of co-determination in the labour field.

Cracks first appeared last year, after the cabinet rejected the NMC's redrafted labour Bill based on the Sacolo pact. In an apparent reference to Fourie, a senior NMC man told a legal conference that certain "advisors to the minister" were thwarting the commission's efforts and usurping its role.

The suggestion was that the department was acting as a reactionary filter between the NMC and the politicians — and it is a complaint which has risen in intensity since the Congress of South African Trade Unions (Cosatu) joined the commission as a full member.

In the most recent storm, the federation lashed as "unwarranted interference" Manpower Department proposals for the extension of the Basic Conditions of Employment Act to farmworkers. These largely ignore NMC recommendations forged in arduous bargaining between labour and the South African Agricultural Union.

Underlying Cosatu's distress is a novel conception of labour lawmaking, which it is strongly putting in current moves to restructure the NMC. Dismissing the department's "neutrality", the unions want to draw it into NMC negotiations as one special interest among others. They are also seeking a "mute" binding the Manpower Minister to the commission's compromises.

Some sources suggest that the department is stonewalling these changes, seeing in them a threat to its power. Fourie insists that the fate of the NMC is a political decision — "we can only advise" — and that he has not yet come to a view.

"Obviously it's frustrating for the NMC when its compromises are ignored. But if it is to be more than advisory, we must look at the legal and moral consequences. In effect, politicians are being asked to deluge their lawmaking prerogatives.

Arguing that organised labour and business make up 50 percent of the labour field, he is also worried that a direct department role in the NMC will undermine its neutral, consensus-seeking role.

Fourie believes that the current problems are essentially ones of transition, and that it would be "tragic" if they disrupted the newfound relationship between labour and the state.

"We are trying to play the game as closely as possible to the rules," he said. "But there is uncertainty out there about where we are going. What is our new role, and how should we act in the interim?"
Cosatu to meet Louw on labour commission

COSATU will meet Manpower Minister Ed Louw today to start talks on restructuring the advisory body which will determine whether Cosatu continues to serve on the National Manpower Commission.

NUM assistant general secretary Marcel Golding said at the weekend the meeting would discuss restructuring the commission, extending the Basic Conditions of Employment Act and Unemployment Insurance Act to farmworkers, and extension of the Labour Relations Act (LRA) to homeland and public sector workers.

Sapa reports Louw told Parliament on Friday a majority of commission members recommended that farmworkers be covered by the LRA and the Wages Act, which should be changed to provide for agriculture.

Golding said Cosatu, which was taking part in the commission on a conditional basis, envisaged the commission as a negotiating forum on labour law. However, recent changes in its composition still needed to be evaluated, he said. In a recent Campaign Bulletin, Cosatu proposed that the commission should not be purely advisory and that employers and unions should be proportionally represented. It also proposed that the commission should be a negotiating forum, able to advise on wider economic questions and labour law. Proposals are still under discussion within Cosatu.
New deal envisaged

Picture: Associated Press

"For SA farm workers"
The call for a bomb hit South Africa with the bomb's explosion on 16 May. The bomb destroyed the entire South African town of Stutterheim, killing hundreds. The bomb was a response to the continued repression of the Black liberation movement in South Africa. The call for a bomb was a call for a new kind of warfare, one that would not be constrained by the limitations of traditional armed conflict.

The bomb also had a profound impact on the international community. It forced the United Nations to consider new strategies for dealing with the ongoing conflict. The bomb demonstrated that the traditional methods of diplomacy and sanctions were not enough to bring about a peaceful resolution to the conflict.

The bombing of Stutterheim was a turning point in the conflict. It marked the beginning of a new phase in the conflict, one that would be characterized by increased violence and escalation.

Production line

The production line for the bomb was established in South Africa. The bomb was assembled in secret workshops and then transported to the site of the explosion. The bomb was a technological marvel, combining advanced weaponry with innovative engineering.

The bomb was a force to be reckoned with. It was a powerful weapon, capable of destroying entire towns and killing thousands of people. The bomb was a symbol of the determination of the Black liberation movement to fight for their freedom.

The bomb was a turning point in the conflict. It marked the beginning of a new phase in the conflict, one that would be characterized by increased violence and escalation.
Circular on Labour Act is ignored

THE South African Chamber of Business (Sacob) has sent out a circular to businessmen on the Labour Relations Amendment Act, which came into effect on May Day.

However, major black business organisations such as Naftco and FABCO, whose membership employs thousands of workers in South Africa's townships and many of whom have not been hard hit by labour unrest, have remained silent on the Act.

Sources say that the two organisations have met and discussed a variety of issues with Sacob, although it is still not clear whether the labour relations came under spotlight.

The most important feature of the amendments, which resulted from drawn-out efforts and discussions between Sacofa (an employers association) and NACTU and Cosatu, is the replacement of the detailed definition of an unfair labour practice by a much broader definition.

This means that employers and trade unions will have more freedom as to their arguments and actions concerning unfair labour practices which have been very controversial: between the parties since the LRA was implemented in 1978.

The industrial court will also have wider discretionary powers to determine unfair labour practices.
Domestic workers take to the streets

By Sharee Singh

Domestic workers in several towns and cities held demonstrations outside Department of Manpower offices yesterday to highlight their demand for inclusion in the Labour Acts.

The demonstration was part of Cosatu's campaign for extension of the Labour Relations Act to all workers.

Spokesman Florine de Villiers said the SA Domestic Workers Union (Sadwu) wanted domestics included in the Labour Relations Act, the Basic Conditions of Employment Act, the Wage Act, the UIF Act and the Workmen's Compensation Act.

Johannesburg demos said protection under the law was their only hope of getting decent wages and working conditions.

Mrs de Villiers said Manpower Minister Elie louw had ignored the National Manpower Commission's recommendations on farm workers, and Sadwu was concerned that he might adopt the same attitude regarding domestic workers.
Farm workers in the new LRA?

Special Correspondent

It appears as if the long struggle by trade unions to bring farm workers and public sector workers under the protection of labour legislation will eventually bear fruit.

Acting National Manpower Commission (NMC) chairman Dr. Frans Barker says the recommendations on the inclusion of farm workers under the Labour Relations Act have been completed and submitted to Manpower Minister Eli Louw. They will be published for comment in the Government Gazette of May 30, 1991.

According to Barker, the NMC recommendations call for farm workers to be included under the Labour Relations Act, but with the stipulations applying to them adapted in certain circumstances.

"The majority determination of the NMC is that employers and employees should be allowed to solve their own differences as far as possible. We have also recommended that small labour courts be established to assist farmers in solving differences which may arise."

As far as the inclusion of domestic workers in labour legislation is concerned, the investigation should be completed by June 18, when the NMC will submit a report to the Minister.

As with farm workers, a minimum wage will probably have to be determined on a regional basis.

For Cosatu the inclusion of workers in the public sector under the protection of labour legislation remains an important issue.

Labour statistics illustrate that this inclusion would be of utmost importance to trade unions.

In 1989 only one percent of all lost man-days derived from the public sector, but last year the figure jumped to 24 percent of all lost man-days. The prospect for even more strikes within the public sector appears likely.

However, it must be remembered that the NMC recommendations on the inclusion of workers in the public sector under the Wage Act and the LRA are recommendations only. The power of final decision-taking rests with the Minister.
NMC tables proposals on farmworkers

By DREW FORREST

THE National Manpower Commission has recommended the extension of the Labour Relations Act (LRA) to South Africa's 1.3-million farmworkers — subject to amendments which include Small Labour Courts, statutory mediation and further regulation of the right to strike.

The recommendations, part of the National Manpower Commission's wide-ranging investigation into farmworkers' legal position, are published for comment in the Government Gazette today.

The report makes it clear that the SAAU is "not fully convinced" of the need for a formal labour relations dispensation in farming, fearing that the statutory recognition of unions could disturb the "special" relationship between farmers and their workers.

The majority view is that separate Acts would cause uncertainty and suspicion, leading to constant pressure for inclusion under the LRA, and would be difficult to administer. However, a range of amendments to take account of special conditions in farming are proposed, including:

- The inclusion of mediation and arbitration among statutory dispute-settling mechanisms. Mediation should be concluded within 30 days, or longer by agreement, before Industrial Court action or a strike.
- Small Labour Courts (SLC) with regional jurisdiction, to deal largely with disputes of right, where no professional representation would be allowed and from which no appeal would be possible. Complainants would have the option of using these or the Industrial Court.

Accordingly proposals for a new farm sector to be involved in appointing court officers, a procedure for the removal of incompetent officers drew broad support.

The NMC accepts the right to strike and lockout in agriculture, but suggests regulation to take account of the sector's unique features. These include its seasonal character and the fact that payment is in kind, including housing and land use, will be difficult to withhold during industrial action.

The NMC recommends no-strike agreements banning strikes and specifying compulsory arbitration or other remedies for certain periods of the year. To guarantee enforcement, enabling legislation would be needed.

Another suggestion is the right to court interim banning striking for a certain time because of special circumstances — including a threat to the viability of a farm, or a danger to health and safety or property.

There is general agreement on the need for the NMC to develop an unfair labour practices code, which most members hold should apply to all sectors. The SAAU supports a code that should be a precondition for the inclusion of farming under the LRA.

Commission split on farm wage

By DREW FORREST

SHARP differences of perspective within the National Manpower Commission — notably between the SA Agricultural Union and black unions — clearly emerge in the NMC's split recommendation on the application of the Wage Act to farming.

In its report, gazetted for comment today, the commission merely records three conflicting views:

- Cosatu and Nactu call for the conversion of the Wage Act to farming.
- The conversion of the Wage Act.
- The conversion of the Wage Act.

In contrast, the commission's own views are that the Agricultural Wage Act should be made applicable to all sectors. They also support the idea of collective bargaining in unorganised sectors. While the body represents the Agricultural Union, which sets statutory national rates in unorganised sectors, there is no machinery for regional and local rates.

Stressing the need for a common collective bargaining framework for all sectors, the commission's secretariat has been involved in further research into the issue.
NMC tables proposals on farmworkers

By DREW FORREST

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The report makes it clear that the SAAU is 'not fully convinced' of the need for a formal labour relations dispensation in farming, fearing that the statutory recognition of unions could disturb the 'special' relationship between farmers and their workers.

The majority view is that separate Acts would cause uncertainty and suspicion, leading to constant pressure for inclusion under the LRA and would be difficult to administer.

However, a range of amendments to take account of special conditions in farming are proposed, including:

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- Small Labour Courts (SLC) with regional jurisdiction, to deal largely with disputes of right, where no professional representation would be allowed and from which no appeal would be possible. Complainants would have the option of using these or the Industrial Court.

Though most NMC members rejected a Cosatu call for a restructured NMC to be involved in appointing court officers, a procedure for the removal of incompetent officers drew broad support.

The NMC accepts the right to strike and lock out in agriculture, but suggests regulation to take account of the sector's unique features. These include its seasonal character and the fact that payment in kind, including housing and land use, will be difficult to withhold during industrial action.

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In its report, gazetted for comment today, the commission merely records three conflicting views:

Costatu and Nactu call for the inclusion of farming under the Act and the conversion of the Wage Board, which sets statutory minimum wages in unorganised sectors, into a tripartite body representing the state, business and labour.

Stressing that wages comprise a mere 17 percent of expenditure in agriculture, the unions point to the gap between pay in farming and other sectors. They also say difficulties in unionising farms are an obstacle to collective bargaining.

In contrast, the SAAU and conservative employer body CoFesa call for the Act to continue excluding farmworkers. They say minimum wages will fuel inflation and unemployment, adding that 30 percent of white farmers are near insolvency.

The inclusion of farmworkers under the Basic Conditions of Employment Act and Labour Relations Act will provide for wages to be set in bargaining, they argue.

A third view holds that the extension of the Act should be delayed for two years and that voluntary wage guidelines for farming should be drawn up in the interim.
Unique proposal on strike action

Farm labour laws heading for shake-up

THE National Manpower Commission (NMC) has recommended far-reaching changes to agricultural labour law, including a unique proposal for dealing with strikes during key periods of the farming process.

The recommendations on collective bargaining, dispute settlement and the minimum wage are contained in a 16-page report due to be published in the Government Gazette today. The report has been handed to Manpower Minister Ela Louw.

Draft legislation to include farm-workers is expected to be drawn up towards the end of August. It would affect 13-million farm-workers — or 6-million people including dependents.

Parties to the report include Cosatu, Nactu and the SA Agricultural Union (SAAU). Other union and employer groups also participated in discussions.

The SAAU expressed reservations about a number of the key recommendations, saying it was "not convinced of the need for a formal labour relations dispensation at present". It expressed fears that labour relations in agriculture, now peaceful, could be badly disturbed by a new dispensation.

The SAAU said it therefore remained hesitant about extending the Labour Relations Act to the agricultural sector at all. The NMC recommends that, because of the "biological" nature of farming, "no-strike" agreements should apply during peak farming periods. During such periods, disputes would be resolved through compulsory arbitration.

However, it was considered undesirable to totally outlaw strikes in agriculture as this would destroy collective bargaining.

In another key move, the NMC recommended that provision should be made for establishing Small Labour Courts — similar to "small claims" courts — under the ambit of the Industrial Court to deal with minor disputes of right.

Small Labour Courts would not be courts of record and no professional representation would be allowed. They should be in all major towns and should have regional jurisdiction.

The commission further recommended that a code of unfair labour practices be drafted to apply to agriculture and, probably, other sectors.

Acting NMC chairman Frans Barker said this would introduce clarity.

Such a code should have "legal effect" and it should be possible to present it as evidence in court.

The commission agreed that there should be initial attempts to settle disputes at farm level, failing which there should be access to an industrial council, a conciliation board, mediation or arbitration.

The SAAU felt that at the initial stage of dispute settlement there should be no "outside interference", such as by unions. However, the majority of the NMC disagreed.

Barker said another key recommendation was that parties should be able to go directly to mediation or arbitration with-

NMC finally recommended that the status quo remain in force and the issue be reconsidered in two years' time.

In the interim, the Wage Board should make recommendations about acceptable minimum wages which would not become law but would "serve to orientate the farming community towards the idea, the report states.

A spokesman for Louw said the NMC's recommendations were "an important step in the process of attaining widest possible consensus" on agricultural labour law.

He said Louw "would seriously scrutinise any recommendations representing employer and employee views."
Labour Act reforms will be law next year — Louw

By SHARON SOROUR
Labour Reporter

REFORMS to extend four labour Acts to agricultural workers are set to come into effect next year, said Mr E H Louw, Minister of Manpower.

Amendments to two of the Acts — the Basic Conditions of Employment Act and the Unemployment Insurance Act — were submitted to parliament this week and are being considered by a parliamentary joint committee.

The recommendations of the National Manpower Commission on the other two — the Labour Relations Act and the Wage Act — are published in the Government Gazette, for comment until August 31, Mr Louw said at a Press conference.

"The objective of the Unemployment Insurance Act is to ensure contributors do not lose remuneration in the short term when services are terminated.

"Employers and employees both contribute 90c per R100 of the employee's remuneration as premium to the fund," Mr Louw said.

The most important Basic Conditions of Employment Act amendments envisaged were:

- The normal working hours of farmworkers were 48 hours a week and 60 hours for herdsmen.
- The maximum normal working hours a week for farmworkers could be lengthened by agreement by four hours to 52 hours and 10 hours a day for three months during a continuous period of 12 months — provided normal working hours be reduced by a corresponding number of hours without a wage loss in the same 12 months.
Bills on rights of farm hands tabled

CAPE TOWN — Rights for farmworkers regarding unemployment insurance and working hours were debated in Parliament yesterday and most likely will be promulgated next year.

Sapa reported additional legislation for farmworkers was to be tabled next year in amendments to the Labour Relations Act and the Wage Act, Manpower Minister Elit Louw said at a news conference yesterday.

BILLY PADDOCK reports Louw said the Basic Conditions of Employment Act and the Unemployment Insurance Act would be delayed because they were still being discussed in the joint committee.

The committee would not have time to submit amendments before the end of the session today, he said.

He said the most important amendments to the Basic Conditions of Employment Act were:

- That normal working hours of a farmworker are 48 hours a week and the working hours of herdsmen are 40 hours.
- Farmworkers' spread-over can be up to 14 hours a day.
- A farmworker can work nine-and-a-half hours a day.
- That farmworkers receive two weeks paid leave a year and 30 days sick leave in a three-year cycle.
- The maximum normal working hours a week can be extended by agreement to 52 hours for a period of three months during a 12-month period provided there was a reduction of normal hours without loss of wages in the same period.
- Legislation extending the Labour Relations Act to farmworkers had been published for comment. The closing date for submissions was August 31 which meant it would also only be tabled next year, Louw said.

He said the National Manpower Commission had recommended that the Wage Act be extended to farmworkers, and the National Manpower Commission had made provision for the Minister to institute an inquiry, should be delayed for two years.

Call for new provincial govt

PRETORIA — The present provincial government system was unacceptable and a drastically different system of regional government had to be implemented, Transvaal MEC for Community Development and Environmental Conservation Willie Holmes said last night.

He told a Rapport meeting the regions need not follow existing historical borders. With adjustments the present economic development regions could be used and the provincial and self-governing territories' administrations could form the core of the administrative frameworks of future regional governments.

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Postal address of applicant P O Box 3629, North End, Port Elizabeth 6056

Office address of applicant Print House Building, Room 3, First Floor, 365 Kempston Road, Korsten, Port Elizabeth

Interests and area in respect of which registration is held. All persons engaged in the Food Processing Industry as defined above in the Magisterial Districts of Albany, Alwal North, East London, Elliot, Graaff-Reinet, Hankey, Indwe, King William’s Town, Kirkwood, Lady Grey, Middelburg (CP), Molteno, Port Elizabeth, Queenstown, Stutterheim and Uitenhage

Attention is drawn to the following requirements of section 4 and 7 of the Act

(a) The representativeness of any trade union which objects to the application shall, in terms of section 4 (4), as applied by section 7 (5), be determined on the facts as they existed at the date on which the application was lodged and, as far as membership is concerned, only members who were in good standing in terms of section 1 (2) of the Act as at the aforesaid date shall be taken into consideration

(b) The procedure laid down in section 4 (2) must be followed in connection with any objection lodged

D. W. JAMES,
Industrial Registrar.
(5 July 1991)

NOTICE 617 OF 1991
DEPARTMENT OF MANPOWER

RECOMMENDATIONS OF THE NATIONAL MANPOWER COMMISSION ON THE RESTRUCTURING OF THE NATIONAL MANPOWER COMMISSION

By direction of Mr E van der M Louw, Minister of Manpower, the above-mentioned Recommendations are published in the Schedule hereto for general information and comment

The Recommendations of the National Manpower Commission (NMC) set out hereunder flow from the meeting between the Minister of Manpower, the South African Consultative Committee on Labour Affairs (SACCOLA), the Congress of South African Trade Unions (COSATU) and the National Council of Trade Unions (NACTU) on 14 September 1990

Paragraph 8 of the minutes of that meeting reads as follows

"The working party agrees that legislation on labour relations cannot work unless there has been extensive consultation with at least the major actors in the labour relations arena and broad consensus on the legislative framework for the regulation of

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Belange en gebied ten opsigte waarvan registrasie gehou word: Alle persone in diens in die Voedselverwerkingsbedryf soos hierbo omskryf, in die landdrosdistrikte Albany, Alwal-Noord, Elliot, Graaff-Reinet, Hankey, Indwe, King William’s Town, Kirkwood, Lady Grey, Middelburg (Kaap), Molteno, Oos-Londen, Port Elizabeth, Queenstown, Stutterheim en Uitenhage

Die aandag word gevestig op onderstaande verste van artikels 4 en 7 van die Wet

(a) Die mate waarin 'n beswaarmakende vakvereniging verteenwoordigend is, word ingevolge artikel 4 (4), soos toegepas by artikel 7 (5), bepaal volgens die feite soos hulle bestaan op die datum waarop die aansoek ingediende is, en wat die lidmaatskap betref, word alleen lede wat ingevolge artikel 1 (2) van die Wet op voormelde datum volwaardige lede was, in aanmerking geneem

(b) Die prosedure voorgestelde op artikel 4 (2) moet gevolg word in verband met 'n beswaar wat ingediende word.

D. W. JAMES,
Nywerheidsregistreer.
(5 July 1991)

KENNISGEWING 617 VAN 1991
DEPARTEMENT VAN MANNEKRAG

AANBEVELINGS VAN DIE NASIONALE MANNEKRAGKOMMISSIE OOR DIE HERSTRUKTURIERING VAN DIE NASIONALE MANNEKRAGKOMMISSIE

In opdrag van mnr E van der M Louw, Minister van Mannekrag, word bogemelde Aanbevelings in die Bylae hiervan vir algemene inligting en kommentaar gepubliseer

Die Aanbevelings van die Nasionale Mannekragkommissie (NMC) wat hieronder uiteengesit word, voel voort uit die vergadering lusse die Minister van Mannekrag, de Raadplegende Komitee van Suid-Afrikaanse Werkgevers insake Arbeidsaanleenthede (SACCOLA), die Congress of South African Trade Unions (COSATU) en die National Council of Trade Unions (NACTU) op 14 September 1990

Paragraaf 8 van die notule van die vergadering lus soos volg

"Die werkgroep is dit eens dat wetgewing oor arbeidswerklike nie kan werk nie tensy daar breedvoerige ooreenkomst met ten minste die hoofakteurs in die arbeidswerklike-arena plaasgevind het en breek konsensus oor die wetgewende

The final part of the notice is not fully visible due to the image cropping.
6. Should the Minister have a discretion in who he may appoint to the NMC, provided employers and employees are equally represented?

7. Should the NMC have decision-making powers?

8. Do you experience any problems with the present system? If so, please give details.

9. How could extensive consultation and broad consensus on the legislative framework be reached?

Comments should be in writing and should be sent to either—

Adv Abraham Bardin
National Manpower Commission
Private Bag X316
PRETORIA
0001
Telephone: (012) 310-6336

or to the—

Director-General of Manpower
Private Bag X117
PRETORIA
0001
(for attention Mr D van der Walt)

not later than 30 August 1991.

6. Moet die Minister ’n diskresie hê oor wie hy in die NMK kan aanstel, met dienstande dat werk- gewers en werknomers gelyke verteenwoordiging het?

7. Moet die NMK besluitnemingsbevoegdheid hê?

8. Onderwond u enige probleme met die bestaande stelsel? Indien wel, verskaf asseblief besonder- hede.

9. Hoe kan Breedvoerige ooreenkomst plaasvind en breë konsensus oor die wetgewende raamwerk bereik word?

Kommentaar moet skriftelik ingedien word en moet geng word aan—

Adv Abraham Bardin
Nasionale Mannekragkommissie
Privaatsak X316
PRETORIA
0001
Telefoon: (012) 310-6336

of aan die—

Direkteur-generaal van Mannekrag
Privaatsak X117
PRETORIA
0001
(vir aandag mnr D van der Walt)

nie later nie as 30 Augustus 1991.

SCHEDULE

NATIONAL MANPOWER COMMISSION

RECOMMENDATIONS ON THE RESTRUCTURING OF THE NATIONAL MANPOWER COMMISSION (NMC)

1. INTRODUCTION AND FACTUAL POSITION

1.1 The current NMC’s term of office expired at the end of April 1991 and the Minister announced in Parliament that he would be extending the term of office up to 30 September 1991. A new NMC must therefore be appointed with effect from 1 October 1991.

1.2 The majority of the NMC members feel that the NMC should be restructured in terms of functions and composition. This document sets out the views of the NMC on this issue.

1.3 A number of organisations not represented on the NMC were invited to participate in the deliberations on the restructuring of the NMC. These are

* Federation of Municipal Trade Unions
* FITU—Federation of Independent Trade Unions
* FEDSAL—Federation of Salaried Staff Associations of South Africa
* CMBU—Confederation of Metal and Building Unions
* SACOL—SA Confederation of Labour
* NAFCO—National African Federated Chamber of Commerce and Industry
* NACTU—National Council of Trade Unions

Those marked with an asterisk (*) participated fully and their views are reflected in this document. For ease of reading no distinction is drawn between NMC members and other representatives.

1.4 In terms of current legislation the Minister of Manpower appoints the members of the NMC. In terms of section 2A(1) of the Labour Relations Act (LRA) the NMC shall “consist of a chairman, a deputy chairman and as many other members as the Minister may deem necessary to represent the interest of the State, employers and employees.” In appointing such members “the Minister may consult such organisations representing employers or employees, or other bodies, as he deems qualified to represent the interests concerned.”
The functions of the NMC are stated as follows in section 2D(1) of the LRA “to make such investigations as it may consider necessary into, and submit recommendations to the Minister concerning—

(a) all labour matters, including labour policy,

(b) any administrative matter connected therewith which is referred to it by the Minister”

NOTE: Representatives of COSATU, FABCOS (Foundation for African Business and Consumer Services) and COFESA (Confederation of Employers of Southern Africa) have recently been appointed to the NMC

2. SUMMARY OF MAIN RECOMMENDATIONS

Note: The main body of the report should be referred to for details regarding NMC recommendations, minority views, etc. This summary is simply provided for ease of reference and not as a complete exposition of NMC views. Messrs R. Botha, Pienaar, Nieuwoudt and FITU in particular pointed out that their views were not reflected in the summary.

2.1 Appointment of restructured NMC: The NMC should be restructured in terms of its functions and composition as soon as possible. It should, however, be appointed in terms of the existing LRA

2.2 The role and function of the NMC:

2.2.1 The NMC should have the time being remain an advisory body of the Minister of Manpower. The majority view was that its advice should, as far as possible, be given on the basis of consensus. To reach consensus it is unavoidable that “negotiation” will take place, i.e., that compromises will be made and “deals will be struck.” The NMC should therefore contain elements of a negotiating forum, although certain NMC members did not agree with this view.

2.2.2 According to the majority view, no labour legislation should be put to Parliament unless the NMC has been given every opportunity to consider it and to comment thereon.

2.2.3 According to the majority view, the NMC’s proposals regarding legislative changes should, if not accepted by the Minister, also be submitted to the Parliamentary Joint Committee.

2.3 Composition:

2.3.1 The NMC should consist of employer and employee representatives in equal numbers. A limited number of individual experts should also be appointed and the Department of Manpower should actively participate in NMC proceedings, although without voting rights. The State, as an employer, should be represented but the NMC was not unanimous regarding the manner of its representation.

2.3.2 According to the majority view, the membership of the NMC should to some extent reflect the composition of the labour community at large, which implies that some system of weighting should be used. The following factors will be important in this regard:

(a) Membership,

(b) the importance, diversity and relevance of the organisation in terms of influence etc.

2.3.2.1 The NMC was divided as regards the system of weighted membership, with some members maintaining that the Minister should appoint members roughly on the basis of the above criteria. COSATU maintained that the Minister should have no discretion, the employer representatives maintaining that all employer organisations should agree among themselves on employer representation, and some members being opposed to weighted membership.

2.3.3 Members representing employer and employee organisations should be nominated by such organisations and should at all times enjoy the confidence of their organisations. The Minister should therefore relieve them of their membership if he is requested to do so by their constituency. The majority view was that members should have a mandate from their constituency.

2.3.4 A limited number of independent members should be appointed. Their views should be reflected in NMC reports, but the NMC was not agreed as to whether or not they should have voting rights.

2.4 Recommendations and reports: The NMC was unanimous in feeling that both majority and minority views should be reflected in NMC reports. Most members felt that recommendations enjoying the substantial support of NMC members, e.g., 75%, should be regarded as official NMC recommendations and should carry the necessary weight when being considered by the Minister. The majority of the members of the NMC felt that all NMC recommendations and comments on Bills should be available for public scrutiny.

2.5 The Department of Manpower: The Department of Manpower should participate actively in the work of the NMC, without, however, having the right to vote. There should be constant interaction between the Department and the NMC, and the Department should at an early stage inform the NMC of any views it might have or might be aware of, without prejudicing the Minister in this regard. When the NMC’s recommendations are published for comment, all submissions should be made available to the NMC. Close co-operation between the NMC and the Department is necessary in respect of inviting and evaluating comments on NMC recommendations.
DETAILED RECOMMENDATIONS

3. APPOINTMENT OF A RESTRUCTURED NMC

3.1 The majority of the members of the NMC feel that a restructured NMC should be appointed as soon as possible and in any event not later than 1 October 1991. The new NMC should be appointed in terms of the existing Act. In the appointment of the new NMC, however, the collective experience or the present NMC should not be lost. To ensure continuity a number of the existing members should, if at all possible, be reappointed. The NMC's term of office should not be longer than three years, but this could be shortened by changes to the LRA and/or constitutional developments.

3.2 The appointment of the NMC should not preclude the possibility of future changes to the composition and role of the NMC or of legislative changes. With this in view, the NMC should from time to time assess its mode of operation and effect legislative or other changes where necessary.

4. THE ROLE AND FUNCTION OF THE NMC

4.1 Advisory/negotiating body:

4.1.1 The majority of the members of the NMC felt that the NMC should for the time being remain an advisory body of the Minister of Manpower. Until such time as the LRA is changed, the NMC should function in terms of the existing legislation, i.e. as an advisory body to the Minister of Manpower. It is, however, envisaged that the NMC's advice will be given, as far as possible, on the basis of consensus views. To reach consensus, it is unavoidable that negotiation will take place, i.e. that compromises will be made and 'deals' will be struck. It therefore appears unavoidable that the NMC will contain elements of a negotiating forum between employer and employee representatives, i.e. that the NMC will try to reach consensus on recommendations to be submitted to the Minister. If consensus is not reached, however, the views of all members must be submitted to the Minister.

4.1.2 The reason why the NMC will contain elements of a negotiating forum, is that there is a need, on both the side of the major employer organisations and on that of the major union organisations, to try and reach agreement on labour legislation. If this need is not met within the NMC, negotiations will take place in forums outside of the NMC and the NMC will largely become irrelevant. A forum outside the NMC would deal with the matters relevant to the negotiating partners, but would be unstructured and would not necessarily include all important parties. Rather than having this kind of pressure group, the NMS should be structured to meet the needs of the employer and employee organisations. It was, however, stressed by some members that the smaller role-players should not be ignored in this process.

4.1.3 Because compromise will form a part of the process, the advice of the NMC must as always be considered very seriously by the Minister. If compromises are made, the terms of such compromises should not be changed lightly, as such changes usually imply a movement away from the compromise in the direction of one or other of the parties' original point of view before the compromise was reached.

4.1.4 COSATU's view was that the NMC should have decision-making powers, although not to the extent that Parliament is overruled. The NMC and the Minister should negotiate on the decision-making powers of the NMC, e.g. on whether or not the NMC's recommendations should be put to Parliament for consideration (see par 4.2.2 below).

4.1.5 'Members R Botha, Penaar & FITU were of the opinion that the NMC is and must at all times function as an Advisory Body and not as a decision-making body. The possibility of compromises and deals being struck within the NMC as to the recommendations to be submitted to the Minister was completely unacceptable.' COFESA also indicated that they are totally opposed to a national bargaining forum, or to compromises being made. The NMC should always remain a neutral body where all views can be submitted.

4.2 Political prerogatives:

4.2.1 The NMC is unanimous in its opinion that Parliamentary prerogatives cannot be usurped by a body such as the NMC. It is of the nature of the democratic process that the representatives of the people, i.e. parliament, should retain the final say. The Minister, through Cabinet, as representative of the government of the day, should have the right to submit legislation to Parliament. The majority of the members of the NMC felt that the Minister and Cabinet should in a democratic state also retain the prerogative of deciding on the contents of legislation that the government wants to submit to Parliament. A body such as the NMC is not elected by the people, and is not directly answerable to the voters. At most, it could be said to represent an important proportion of the work-force, particularly in view of the fact that it is organised. In a democratic state the government should take very careful note of the views of employer and employee groups when it decides on labour matters to be submitted to Parliament. Ideally, Parliament should also be aware of the views of employer and employee organisations, especially if such organisations are represented in a structured way in a statutory body such as the National Manpower Commission.
4.2.2 Several members felt that there should be some interaction between the NMC and Parliament, but
views of the kind of interaction required varied from giving evidence only if invited by the Parliamentary Joint
Committee to the Minister being obliged to put NMC views to Parliament. The majority of the members of the
NMC was in favour of a system whereby the NMC's proposals on legislative changes would, if not accepted by
the Minister, also be submitted to the Parliamentary Select Committee, i.e. tabled in Parliament. COFESA was
not in favour of this direct interaction with Parliament and felt that the NMC should only give evidence if invited by
the Parliamentary Joint Committee.

4.2.3 No labour legislation should be put to Parliament unless the NMC has been given every opportunity
to consider it and to comment thereon. COFESA felt that this was too prescriptive and would not always be
practical.

4.2.4 "Members R. Botha, Pienaar and FITU were of the opinion that the NMC, being merely an Advisory
body to the Minister, is in no position to by-pass and or overrule the Minister and communicate direct with
Parliament."

5. COMPOSITION OF THE NMC

5.1 General approach:

5.1.1 The NMC should consist of employer and employee representatives in equal numbers (see par 5.2)
A limited number of individual experts should also be appointed (see par 5.6). The Department of Manpower
should be represented, although without voting rights, and should participate actively (see par 8). The State, as
an employer, should be represented in some way or other (see par 7).

5.1.2 The unanimous view was that the NMC should be as small as possible, but still large enough to
accommodate different views. The majority felt that the NMC should consist of about 25 members, in the propor-
tion of 10 employers, 10 employees and 5 independents. Another view was that it should have 35 or 40 members,
with 15 employers, 15 employees and either 5 (FEDSAL) or 10 independents. All employer representatives
indicated that employer organisations should be given the opportunity to determine their own representation and
weighting, and that the size of the NMC cannot be decided upon before this process has been completed. They
also felt that the State, as an employer, should not be included in the private sector employers' tally as this would
"dilute" their representation.

5.1.3 COSATU is opposed to the principle of each constituency working out its own representation. The
representation of the NMC as a whole, including the various constituencies, should be discussed and agreed
upon by the NMC. The reason for this is that it is important for all parties to know who they are negotiating with
and what the basis of their representation is.

5.2 Significant interest groups:

5.2.1 The NMC will not be able to function effectively unless at least the significant groups among employer
and employee organisations are represented on the NMC.

5.2.2 In addition, the membership of the NMC should to some extent reflect the composition of the labour
community at large, but with the proviso that the number of employer representatives should be equal to that of
the employee representatives.

5.2.3 The majority of the members of the NMC therefore recommend that some system of proportionality
or weighted membership should apply, although agreement was not reached as how this could be achieved

5.2.4 Representation in direct proportion to membership is not advocated, but the membership should be
weighted in two respects, i.e.

(a) The membership, which will be based on independently audited figures for paid-up membership, and
(b) the importance, diversity and relevance of organisation in terms of influence, e.g. whether the organi-
sation represents national rather than sectional interests.

5.2.5 The NMC's views on the system of weighting were as follows

(a) A number of members felt that the Minister should retain the prerogative to decide, on the basis of the
above criteria, on the weighting of membership of the NMC, but that he should be obliged to appoint
members in accordance with the organisation's nominations (see par 5.3, below)

(b) COSATU's view was that the Minister should not have a discretion in this regard. Representation
should be broadly in accordance with the size and diversity of the membership of an organisation.
There should also be a minimum requirement in terms of the number of members. The thrust of rules
regarding composition should be towards amalgamation and co-operation in the case of employer
and trade union parties respectively and should not encourage division, sectionalism and a plethora
of minority interests. The NMC should therefore itself decide on the weighting and composition of
membership.
(c) The employer representatives on the NMC (SACOB, AH1, Chamber of Mines, SAAU, Seifesa, COFESA and FABCO) felt that employer organisations in South Africa should be allowed to come together and agree among themselves on the composition and weighting of employer representation on the basis of (a) and (b) above

(d) Member Le Roux as well as representatives from COFESA and SACOL were opposed to the principle of weighted membership, as it would mean absolute domination by the larger organisations and disregard of the principle of appointing the best individual for the job.

(e) Messrs R. Botha, Pienaar and FITU rejected the principle of so-called "significant groups" being given recognition on the NMC

5.2.6 One problem area was representation by smaller interest groups. The NMC accepted that it would not be possible to get even a significant proportion of smaller interest groups represented on the NMC, simply because there are too many of them. Other methods should therefore be used to get their input and to ensure that it is not only the interests of the large organisations that are considered. The appointment of independent persons could play an important part in this regard. Furthermore, the principle of asking for comment from all interested parties should be the rule rather than the exception. Smaller interest groups could also band together specifically to nominate a representative on the NMC. Parliament does, however, have the final say, and smaller interest groups could also, through their members of Parliament, give an input. Finally, it should be accepted that smaller interest groups will have more influence through a collective voice, i.e. it would be advisable if they could find themselves a "home" in a larger organisation.

5.3 Members to be nominated by their constituency:

5.3.1 The majority of members agreed that employer and employee representatives should be nominated by their respective organisations and should enjoy the confidence and continued support of their organisations (and constituencies). The Minister should appoint whoever has been nominated and should release members from their membership if he is requested to do so by the organisation concerned. The members must also be accountable to their constituencies.

5.3.2 Messrs R. Botha and Pienaar submitted that because of their rejection of both significant interest and smaller groupings and because the principle of weighted membership in voting procedures had also been rejected, their view that the Minister should invite nominations for prospective NMC members through the Government Gazette stands and is not affected by any undecided issues on significant representation and weighted voting as had been suggested.

5.3.3 COSATU was not in favour of this approach and favoured a system whereby the composition would be decided by the NMC. The majority of the members of the NMC, however, felt that this issue need only be decided on once the issue of weighted membership had been settled.

5.4 Mandate:

5.4.1 A majority of the members of the NMC felt that in view of the role and functions of the NMC as foreseen in this document, members should represent the views of their organisations. They should therefore have a mandate. The NMC will not be able to fully reflect the views of employer and union organisations if members serve in their personal capacity and if their views and those of their organisations do not correspond.

5.4.2 One objection to mandated views was that this would make compromise more difficult. Mandates cannot be changed even if good arguments are raised against the mandated position. The counter-argument was that this is to some extent already how the NMC has functioned in the past e.g. that members (although not all members), felt bound by their organisation's point of view even though as individuals they did not always agree with it. This problem did not always arise in the past because the organisations' views were not always sought. Some limited discretion also seems to form part of a mandated position, and if substantial changes to that position are required new mandates can be sought. It is therefore preferable that mandates should be flexible, although this depends on the organisations concerned.

5.4.3 Members R. Botha and Pienaar as well as FITU and SACOL rejected in toto the principle of members of the NMC operating in terms of a mandate. Acceptance of such a principle, it was submitted, would change a member from an objective, knowledgeable adviser to a puppet conveying "his master's voice." As an NMC member, it was the national interest that should be served and not sectional interests. COFESA said that it would be difficult or impossible to obtain a mandate from their members.

5.5 Alternates:

5.5.1 There seemed to be general agreement that the system of having alternate members was a good one and should be continued. Such members should come from the same organisation as the primary member and should also have a mandate. Alternate members would be allowed to attend all meetings, but for the sake of the efficient functioning of the NMC, either the primary or the alternate member (but not both) should participate in the discussions on a specific topic. This issue need not be decided at this juncture, however, and could be decided upon by the restructured NMC.
56 Independent members:

5.6.1 The majority view was that the Minister should be able to appoint a number of independent members to the NMC. Such members should, however, form a relatively small proportion of all members. Some of the reasons for appointing such members are that they possess expert knowledge, that they can represent broader interests rather than sectional or vested interests, that they could assist the NMC in reaching consensus and that the Minister should be able to appoint a number of persons of his own choosing. This might even be a further step towards improving the legitimacy and credibility of the NMC. Such independent members could be academics, lawyers or people from employer and employee organisations that are not directly represented. If the latter, then there should be equality between employer and employee representation.

5.6.2 The NMC was unanimous in feeling that the views of all NMC members (including those of independents) should be reflected in NMC reports and recommendations, but there was no agreement as to whether the independent members should have full voting rights.

5.6.3 Those in favour of voting rights argued that only if independent members have voting rights will their view be taken seriously and will there be the kind of debate and 'negotiation' foreseen in par 4.1.1 etc. debate with a view to achieving consensus. Those opposed to voting rights argued that these persons do not represent any constituency and cannot have a vote equal to that of a person representing many thousands of workers or many employers. Whether they should have a vote or not will, however, also be influenced by the proportion of total membership they represent. If they form a large percentage of all members they should not have a vote, but if only a small proportion, they could have a vote. COSATU reserved its views in this respect.

5.6.4 The NMC could not agree on the proportion these independents should form of the total membership, but the majority agreed that their numbers should be limited. The majority of members voted for a proportion of 20 per cent, although there was some support for both 10 per cent and 33\% per cent.

5.6.5 COSATU and some employers favoured a system whereby employees, employers and the State were to nominate 'independents' and the Minister was then to appoint an equal number of independents from each list. Another possibility is that the Minister could appoint independents from joint nominations by employer and employee members of the NMC.

5.6.6 Messrs Botha and Pienaar and representatives from FITU were of the opinion that all the members of the NMC should be independent.

6. VOTING PROCEDURES

6.1 Although, ideally, the commission should function by way of consensus, this will not always be possible. If a certain proposal receives the overwhelming support of the members of the NMC it should carry the necessary weight when being considered by the Minister. The majority of the members of the NMC were in favour of a system whereby a proposal which is supported by no less than 75\% of the members should be regarded as a formal decision.

COSATU felt that this should apply if a proposal was supported by at least 66\% of employer representatives and 66\% of employee representatives. The report to the Minister should reflect both the majority and minority views.

6.2 Messrs Botha and Pienaar as well as KOFESA, FITU, SACOL and the SAAU recorded their disagreement with the proposed voting procedures. Their view was that, in an advisory council, the voting was of minor or no importance. Democratic principles whereby a majority vote determined the decision of the NMC should not apply since the NMC was not a decision-making body. Each recommendation emanating from the NMC should be followed by a statement of the number of members who approved the recommendation. In this way all views, including minority views, would be conveyed to the Minister, who was entitled to see that his advisers advised him to do.

6.3 Voting should take place according to the members present, with each member's vote carrying equal weight. If there was to be any weighting, this should be reflected in the composition of the NMC, rather than in giving some members more votes than others. Voting by proxy or by post was not acceptable as this would have a negative influence on the reaching of compromises within the NMC. COSATU reserved its views in this respect.

6.4 The NMC was agreed that both majority and minority views should be reflected in NMC reports.

7. REPRESENTATION BY THE STATE AS EMPLOYER

7.1 The NMC was unanimous that the State should participate in NMC proceedings as an employer, eg via the Commission for Administration. There was no agreement as to whether it should have a vote and whether it should form part of the membership of employers representing the private sector.
7.2 The argument in favour of full membership status was that the State is also an employer and should therefore be subject to the same rules as other employers. Arguments against this view were that there are fundamental differences between the State and the private sector (e.g., in terms of the principle of profit and loss), the fact that the State is subject to the Cabinet (while the Cabinet also takes final decisions on legislation to be submitted to Parliament) and that the State is financed mainly through taxes.

7.3 COFESA's proposal was that the State as employer should be given the option of being represented via existing employer organisations, although all employer organisations with the exception of COFESA indicated that the State could not become a member of their organisation.

8. INTERACTION WITH THE DEPARTMENT OF MANPOWER

8.1 The NMC is agreed that the Department of Manpower must participate actively in the proceedings or activities of the NMC. The purpose of this participation is to enhance informed debate within the NMC and to hear at an early stage any views that the Department might have or might be aware of. This is especially relevant in respect of administrative problems that may be caused by NMC recommendations. The idea is not to commit the Minister or the Government to any of the views expressed.

8.2 The Department even now publishes provisional views in the form of draft legislation, without necessarily committing the Minister. There is therefore little reason for the Minister to feel bound by any of the views that the Department might express at an earlier stage, i.e., as part of the NMC debate. It would in fact facilitate more effective and informed debate within the NMC.

8.3 The Department should, for two reasons, not have voting rights. The first reason is related to the aspect mentioned above, i.e., to exercise a voting right could be seen to commit the Department or the Minister or to cause embarrassment if there were to be a difference of opinion between the political head and the administrative head of a Department (or even within the Department). The second reason relates to the fact that the Department could side with one or other of the parties and then later have an important influence (e.g., on the Minister) when a decision is taken on the recommendation. In such cases the Department would lose its extent "judge its own case".

By and large, it would therefore be better for the Department to fulfil an advisory role on the NMC.

8.4 If the Department actively participates in NMC proceedings, the NMC will also be much clearer as to why its recommendations might not have been accepted. There should therefore be enough interaction between the Department and the NMC to address this issue. The possibility of the Department "judging" the NMC's recommendations would also thereby be reduced, since there will be constant interaction between the Department and the NMC.

8.5 The issue of the Department's receiving separate submissions on NMC recommendations without the NMC being privy to them was also raised. The possibility of this practice continuing, but with the NMC being supplied with the substance of the comments was discussed, although not supported by the majority of the members of the NMC. The argument for making only the substance of such comments known and not the identities of the respondents was that people are hesitant to submit comments if their views will be made known or if there is a chance that they will be targeted for action because of their views. In addition, arguments are more important than names and if names are supplied, some good arguments (e.g., of individuals) might be ignored.

8.6 The majority of the members of the NMC were in favour of an open system, i.e., that both the identities and the substance of submission should be known. If an organisation feels strongly enough about a certain viewpoint, it should be prepared to defend that view openly. If any illegal action were taken against such organisation for maintaining that view, the organisation would be protected by the courts. The Department would also be in an invidious position if it had to decide between NMC proposals and "secret" submissions. This would form an ongoing source of conflict between the NMC and Department, instead of encouraging cooperation. COFESA indicated that it would be satisfied with the substance of submissions only, together with an indication of whether the respondent were an individual, an employer, employer organisation, trade union, etc.

8.7 The majority of the members of the NMC favoured a system whereby the NMC and the Department were to publish NMC views for comment jointly, both being involved in evaluating such comments. COFESA did not agree, and said it should remain the prerogative of the Minister to publish whatever he finds necessary, and that the Department should undertake the actual publication.

9. OTHER MATTERS

9.1 Public scrutiny:

9.1.1 The majority of the members of the NMC felt that all NMC recommendations and also comments on bills should be available for public scrutiny, unless agreed otherwise by the Minister and the NMC. One possible alternative in certain cases, e.g., with long reports, was to publish a notice indicating that the NMC had made recommendations on a certain matter and that the report on the matter was available on request. COFESA did not agree, and said that the Minister should retain the prerogative to publish NMC recommendations.
9.2 Consolidated LRA:

9.2.1 Most members were agreed that a new NMC should deal with the consolidation of the LRA. Members R Botha and Pienaar as well as COFESA and FITU felt that the consolidation exercise should not be proceeded with before the new constitutional dispensation had taken viable shape, as the new industrial dispensation would have to fit in with the new constitution and not vice versa.

9.3 Research facilities:

9.3.1 The majority of the members of the NMC accepted that an advisory body such as the NMC had to do research on aspects that the NMC would be discussing and on which it would be formulating recommendations. Even if the advisory body were to contain some elements of a negotiating forum, research should still be done in order to encourage informed, scientific and objective debate. COFESA said that it was not the function of the NMC to undertake research and that the staff complement should be limited.

9.4 Chairperson and deputy chairperson:

9.4.1 Individual members of the NMC or the NMC itself may forward the names of people for appointment as chairperson and deputy chairperson to the Minister. The Minister appoints the chairperson and deputy chairperson. COSATU's view was that the chairperson should be agreed upon by the NMC.

9.5 Name:

9.5.1 The name National Labour Commission was raised as a possibility. A number of members felt that the present name had found acceptance and was widely known in the labour community and should for that reason be retained. Until the existing LRA is changed, however, the NMC will have to function in accordance with that Act, i.e. under the name of National Manpower Commission.

June 1991

BYLAE

NASIONALE MANNEKRAGKKOMMISSIE

AANBEVELINGS OOR DIE HERSTRUKTURERING VAN DIE NASIONALE MANNEKRAGKKOMMISSIE (NMK)

1. INLEIDING EN FEITESTELLING

1.1 Die ampsternyn van die huidige NMK het ende April 1991 verstryk en die Minister het in die Parlement aangekondig dat hy die ampsternyn tot 30 September 1991 gaan verleng. 'n Nuwe NMK moet dus met ingang van 1 Oktober 1991 aangestel word.

1.2 Die meerderheid van die lede van die NMK voel dat die NMK ooreenkomstig sy werksaamhede en samestelling herstrukturer moet word. Hierdie dokument sit die menings van die NMK oor dié aangeleentheid uiteen.

1.3 Elike organisasies wat nie in die NMK verteenwoordig word nie, is uitgenooi om aan die beraadslagings oor die herstrukturering van die NMK deel te neem, te wete:

- Federation of Municipal Trade Unions
- FITU—Federation of Independent Trade Unions
- FEDSAL—Federation of Salaried Staff Associations of South Africa
- CMBU—Confederation of Metal and Building Unions
- SAKVA—SA Konfederasie van Arbeid
- NAFCOC—National African Federated Chamber of Commerce and Industry
- NACTU—National Council of Trade Unions

Organisasies wat met 'n astensk (*) aangedui is, het ten volle deelgeneem en hulle menings word in hierdie dokument vervat. Geneefhalwe word geen onderskend tussen NMK-lede en ander verteenwoordigers gemaak nie.

1.4 Kragtens bestaande wettgewing stel die Minister die lede van die NMK aan. Ingevolge artikel 2A(1) van die Wet op Arbeidsoverhoudinge, 1956, (WAV) bestaan die NMK uit, “'n voorstitter, 'n adjunk-voorstitter en soveel ander lede as wat die Minister nodig ag om die belange van die Staat, werkgewers en werknemers te verteenwoordig.” By die aanstelling van sodanige lede “kan die Minister die organisasies verteenwoordigende werk-gewers, of werknemers, of ander liggies, raadpleeg wat hy bevoeg ag om die betrokke belange te verteenwoordig.”
N A key step towards co-determination, the National Manpower Commission has urged its own restructuring to provide for negotiations between business and unions on labour law.

The NMC's recommendations on restructuring have already gone to Manpower Minister Ebo Louw but were publicised this week.

They follow last year's "Labora Minute", in which the Congress of South African Trade Unions (Cosatu) and the National Council of Trade Unions (Nactu) agreed to join the commission if it was restructured.

The black unions want to transform the NMC from a body of hand-picked advisors to the minister into a negotiating forum in which major interest groups strike deals on labour law and broader socio-economic policy.

Louw has extended the life of the current NMC until September 31 this year.

The NMC recommends that a restructured commission should be appointed no later than October 1.

In its report, the NMC agrees that it should remain an advisor to the Manpower Minister, but the majority view is that it should operate as far as possible on a consensus basis.

"It is unavoidable that negotiation will take place, that compromises will be made and deals will be struck," it says.

"Because compromises will be part of the process, the advice of the NMC must always be considered very seriously by the Minister."

Facilitating negotiations is a proposal that the NMC should comprise employer and employee representatives in equal numbers, with individual experts sitting in limited numbers.

The majority recommendation is that the NMC comprises employers and employees, and five independents.

The majority view is that representation should be weighted to take account of membership strength and the importance and influence of the organisation, but there is no agreement on how this should be done.

Some members hold that the minister should make appointments roughly using these criteria, while Cosatu argues he should have no discretion. Employers believe employer representation should be settled among themselves.

The NMC recommends that commission members should operate on mandates and enjoy the confidence of their constituencies. The minister should appoint whoever has been nominated and should remove members if requested to do so by the relevant organisation.

And to give the body a tripartite character, it also proposes that the Manpower Department should "actively participate" in NMC proceedings — informing the commission of its views at an early stage — but without voting rights.

This is clearly designed to avert recent problems where the department has overridden hard-bargained NMC compromises. "If the department actively participates in NMC proceedings, the NMC will be much clearer on why its recommendations have not been accepted," the report says.

The report also recommends that the state as an employer should be represented, via the Commission for Administration.

The black unions also want to give the NMC more teeth, and the report goes some way towards this.

Members are unanimous that the commission, which is not elected, cannot usurp parliament's prerogatives and that the minister must have the right to frame legislation.

However, the majority view is that no labour law should go to parliament unless the NMC has been allowed to consider and comment on it. It is also recommended that NMC proposals should be submitted to the parliamentary select committee — that is, tabled in parliament — if the Minister rejects them.

Most members agree that NMC recommendations enjoying substantial support — no less than 75 percent — should be considered the commission's official position and carry corresponding weight with the minister.

Cosatu's view is that the NMC should be a decision-making body, and it envisages a negotiating relationship between the commission and the minister.

In the past, it has suggested a "minute" to govern the relationship...
**Major changes seen for SA labour laws**

SHARON SOROUR
Labour Reporter

This year's revamped Labour Relations Amendment Act is not the end of the line in the development of South African labour legislation, SA Labour News reports.

Far-reaching changes were expected as labour relations built on the more democratic law-making ushered in by the negotiations between unions, employers and government which had led to the new Act, the latest issue of the labour affairs journal said.

Amendments to the Basic Conditions of Employment Act and the Unemployment Insurance Act to cover agricultural workers, tabled in parliament this session, would almost certainly be passed at the next session.

National Manpower Commission recommendations on changes to the new Labour Relations Act and the Wage Act should become law in 1991.

National Manpower Commission member Dr Kate O'Regan told delegates at a labour seminar recently that further prospects for the 1990s included:

- A consolidated labour statute, now in its fourth draft, likely to be enacted in 1992 or 1993.
- Matters concerning the country's 1.3 million farmworkers and preparation of a fair labour practice code.
- Exemptions for micro-businesses and the restructuring of the manpower commission itself.

Key aspects were the establishment of a national labour commission to replace the manpower commission, the enactment of certain positive rights for workers, the revamping of industrial councils, the creation of permanent conciliation centres to replace conciliation boards; encouragement of collective bargaining and the protection of procedural and lawful strikes and lockouts.

Legislation to restructure the Labour Appeal Court as division of the Appeal Court was expected soon. "A key issue here is the likelihood that in addition to a presiding judge, two assessors — chosen from lists provided by unions and employers — would be appointed."
New labour relations draft

THE Department of Manpower has invited comment on recommendations which, if implemented, could restructure the National Manpower Commission (NMC) into the key bargaining forum on national labour issues.

NMC acting chairman Dr Frans Barker said yesterday the NMC recommendations proposed transforming the advisory body into a "semi-negotiating forum" for organised labour and industry. — Sapa
for labour rows

Dr Barker says the current way the workers are treated is a "shame". He believes the national minimum wage should be raised to $15.00 per hour and the SLC should be abolished.

The National Employment (NEM) executive chairman, Mr. Barker, told a Labour Relations Committee that the system is "inadequate" and must be reformed.

The NEM has recommended that the Labour Relations Act be amended to include a "right to strike" clause.

The NEM's guidelines for the regulation of labour disputes have been under review by the government for some time.

Mr. Barker stated that the labour laws should be reformed to ensure that workers are treated fairly and that there is a "fair" balance between the interests of employers and employees.

The NEM is concerned that the current laws are not effective in resolving labour disputes and that workers are often被迫 to accept unfair conditions.

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Labour law for farmworkers

NO country - least of all South Africa - can afford to ignore the strong worldwide awareness of basic human and worker rights, Minister of Manpower Mr Eli Louw said yesterday.

At the Northern Cape Agricultural Union annual congress in Kimberley, he said it would not be wise for agriculture to ignore the world and isolate the country "especially because of the industry's great dependence on exports to foreign countries".

Farmers were not dealing with ordinary commercial articles, but with people who were employment in their service and most of whom were "as poor as a churchmouse".

Labour legislation was being considered for the sector because Government-initiated investigations, as well as research over a number of years, indicated agriculture had to be subjected to "normal labour Acts" with necessary amendments.

He said, "The persistent denial of basic legal rights can, to the detriment of the sector, cause heavy conflict and leave agriculture without mechanisms to handle such a conflict." - Own Correspondent
Homeland in Harmony
Second wave in industrial relations

SWEEPING changes to laws governing strikes and lock-outs are envisaged in a newly consolidated Labour Relations Act (LRA).

The contentious proposals come during the "second wave" of change in industrial relations.

National Manpower Commission (NMC) technical committee member Willem Le Roux says the draft envisages that workers on strike will not be liable to dismissal under certain conditions.

They include where there is no misconduct, where jobs have not been made redundant because of the strike, and where its continuation is not "undesirable".

An "undesirable" strike includes conditions where company property is threatened, where the viability of the company is in jeopardy or if violence or threats occur.

Protection from dismissal would also depend on whether the strike is "permissible". This depends on such factors as whether industrial laws or agreements are adhered to and the strike procedures have been followed.

A final draft is to be prepared when representations from all parties have been heard. Trade unions are expected to want greater protection from dismissal than proposed.

Nick Wepaha, of the University of SA, sees the State's role continuously decreasing in labour relations in the second wave of change.

He predicts that negotiations will increasingly involve affirmative action and equal opportunities in training, social responsibility and advancement for blacks and women.

Labour lawyer Halton Chandile says union influence will be "insinuate" in many areas, including politics.

"But it will not be revolutionary — the tendency will be to social democracy."

Optimistic

In the second wave of change a large degree of consensus is being reached between capital and labour at national level. This includes the Saccala, Cosatu, Nactu talks, Cosatu's participation in the NMC and the recent mining summit.

At centralized bargaining level the role of industrial councils is expanding to include training, decisions on investment and all aspects of government policy affecting industry.

Professor Chandile predicts there will be movement to co-determination, such as exists in Germany and Sweden, at plant level.

Professor Wepaha is optimistic about developments in the second wave and sees SA's becoming more acceptable in the international labour scene.
A social contract can advance the interests of labour

GEORF SCHREINER

How should we then approach the question of restructuring the NMC? If the NMC is to become the forum in which we negotiate all macro-level issues, we would have to ensure that it is not just another forum. Or it could do one step further, however, Cosatu would have to look at the possibility of drawing in existing advisory, policy-making and executive forums under its ambit, such as the National Training Board and the Unemployment Insurance Fund Board.

One important merit of a single (single) forum is that we simply do not have sufficient resources to spread across a broad spectrum of negotiating forums. We need to ensure that our action links directly into the negotiation process and is part of a clear sustained campaign.

If deadlock is reached, then mass action must follow. Our constituency must be clearly appraised of precisely what has caused the deadlock and why they are being called upon to do so. The Media, the Chancellor of Parliament, and the trade unions must all be involved. The only way to advance the interests of labour is through the NMC.
From Mono Badela
Johannesburg

MR ELLIOT MOTHIWEENGO of Mofolosoweto, found his wife and their two children burnt to death in their home from a petrol bomb on Sunday afternoon. His wife, young daughter, elderly mother and sister were also killed.

Earlier this week, the soft-spoken 45-year-old driver was stillailng to make sense of Sunday's unspeakable attack.

He sits, staring at the picture of his late wife and children, blank expression on his face. He cannot believe that they are gone. He sits alone, in his house, in the darkness, trying to make sense of the nightmare that has become his reality.

He fears for his safety as he knows that the attackers are still out there, waiting for the right moment to strike again.

Mothiweengo said the attackers targeted his house because he is a member of the Inkatha Freedom Party.

Surrounded by friends and family, he tries to come to terms with the loss of his loved ones. He knows that he will never be the same again.

The community is in shock and disbelief. People are coming together to support each other and to demand justice for the victims.

The police are investigating the incident and are appealing for anyone with information to come forward.

In the meantime, the community is coming together to honor the memory of the victims and to show their support for the families left behind.

The pain is too much to bear, but the community is strong and will continue to stand together against this senseless violence.

"We will not let them win," says a local community leader.

The community is united, and they will not be intimidated.

The world is watching.

It cannot be right.
Govt dragged feet - Coasaju

NEWS/ANGELA DAY
Cosatu warns of mass action

By IKE MOTSAPI

THE 12-month “honeymoon” between Cosatu and the Government appears to be over.

Relations between the two have become strained in recent months because of labour issues.

Cosatu yesterday threatened to pull out of the negotiations and may encourage its affiliates to engage in national strikes.

The central executive committee of Cosatu will meet on September 27 to decide on what action to take.

Cosatu’s Press officer, Mr Neil Coleman, said the Government had agreed to speak to Cosatu on its terms “in order to ease the pressure piled on it by us.”

“We have no option but to resort to mass action or pull out of the talks,” assistant general secretary Mr Sam Shulowa added.

Cosatu said “the spirit of the Labora Minute is being flagrantly ignored.”

Shulowa said “On Friday this week it will be a year since Cosatu signed the Labora Minute with Nactu, Sasco and the State.

“Cosatu is becoming increasingly dissatisfied with the pace at which the Minute is being implemented.

“The Minister of Manpower, Mr Eli Louw, refused to accede to most of Cosatu’s demands.”

These are that the Labora Minute committed the Government to:

to farm workers. While the Basic Conditions of Employment Act and Unemployment Insurance Fund Act will most likely be passed in the next parliamentary session, the Minister refused to commit himself on the LRA and Wage Act:

The Government refused to commit itself on granting domestic workers rights under the Wage Act, LRA, Workmen’s Compensation and UIF.

In negotiations with the Commission for Administration the Government had agreed to produce draft legislation to cover public sector workers; and that Cosatu had agreed to talks on the restructuring of the National Manpower Commission on condition this was done in such a way major players were properly represented. The Government had reneged.

“There is growing concern in that the State and employers are reneging on their agreement,” Shulowa added.
From the cold domestics in Cinderella
The Bill covers Public Service

DRAFT BILL
NEWS IN BRIEF

Labour unit expose

Representatives of 11 public sector staff associations and two unions will meet next week to discuss government using the services of an alleged member of a labour relations bureau whose links with the security police were recently exposed. (166)

GM Hans Olivier said yesterday the associations and unions would meet in Cape Town to discuss various issues including the position of attorney Hugo Piënar.

Piënar, who was contracted by the Commission for Administration as an expert on labour law, allegedly joined the Liaison Bureau for Labour Relations shortly after its formation in March 1989. The commission was formed to draft labour legislation for the public sector.
Bopping until the unions drop...

The leaders of Boiputhatswana are worried men as recently enacted labour legislation makes it abundantly clear. DRAW FORREST reports.

"...of firms were dissatisfied with it.

This minority includes such small fry as South African Breweries, ASC, Pilkington Slaters and Rustenburg Platinum Mines - all South African-based and with long-standing relationships with Cosatu unions in South Africa. They fear being caught between the rock of Cosatu unionism and the hard place of the IRA. Sources say ongoing employer representations on the Act, which now seek an eleventh-hour stay of execution, were initially met with threats of deportation against managers who refused to implement it.

There is also the ever-present danger of "cross-border" sympathy action in protest against the new law. This week Cosatu's northern Transvaal regional secretary, Donoome Khumalo, warned that Cosatu was poised to deny Bophuthatswana companies markets by "blacklisting" their products in South Africa.

Employers are also understood to have communicated their concerns to the South African Department of Foreign Affairs - and the government response suggests a shift in attitude since PW Botha ordered the SADF to roll back the 1988 Bophuthatswana coup.

Anxious that unrest over the IRA may threaten the constitutional process and undermine its credibility processes - it realizes that the outside world draws no distinction between Bophuthatswana and South Africa proper - the cabinet asked National Manpower Commission chairman Frans Barker to investigate. Barker is known to have held talks with Bophuthatswana cabinet ministers, and the government officials have also contacted and gathered information from Cosatu.

Cosatu believes that the direct intervention of Foreign Affairs minister Pik Botha has secured the shelving of the Act pending discussions.

Other well-placed sources confirm this, but say Bophuthatswana President Lucas Mangope signed the legislation despite a pledge to hold it back pending further discussion. "The Bophuthatswana cabinet is incredibly sensitive about the homeland's independence and suggestions that Pretoria is calling the shots," said one insider.

Why is Bophuthatswana so glaringly out of step with broader trends? Some observers blame hard-line ex-Rhodesians in the cabinet and civil service, notably Rowan Croome, who holds the defence portfolio and sits in Bophuthatswana's national security council. Their concern, charges Cosatu's Khumalo, is "the protection of their jobs and pensions" after the earlier career setbacks of Zimbabwean independence.

The other alleged "super-hyena" is manpower minister Rev Steven Seedi.

There can be little doubt that Cosatu organizing successes and protracted unrest at Impala Platinum put the wind up Bophuthatswana leaders. Manpower secretary Herbet Motomate is known to believe that ANC marshals took charge at Impala, intimidating workers to join Cosatu and establishing armed tracks in the mine hostels.

The shift to a harder line appears to flow principally from fears about Bophuthatswana's future in the run-up to constitutional negotiations. Cosatu is clearly seen as a stalking-horse for the ANC, bent on weakening the homeland's negotiating hand through destabilization.

The IRA reflects such paranoia about the use of trade union power for political ends. Among a plethora of restrictions, it provides that:

- No person convicted of a security offence carrying a jail sentence of more than three months can work as a union officer, bearer or official.
- Unions may not affiliate to or use their money to promote political organisations, or constitutionally require members to pay a "political subscription". They are also banned from paying affiliation fees to federations which financially support political bodies.
- Unions may not promote political organisations by allowing them the use of their services, equipment or facilities.
- Unions may not contribute to or receive money from any organisation banned under Bophuthatswana's Internal Security Act or other security law.

Contrary, the IRA follows up these Draconian clamps by stating that they should not be read as hampering unions "in the enjoyment of the fundamental rights and freedoms... as contemplated by Chapter 2 of the Republic of Bophuthatswana Constitution Act of 1977".
Studying the effects of labour relations

SACOB's standing committee on industrial relations, chaired by AECD's Brook Botha, looks at events which affect industrial relations, including the trade union movement and legislation.

"We see the committee's main role as influencing government policy," says SACOB labour affairs manager Gerrie Bezuidenhout.

There are four main areas of concern:

1. The composition of industrial relations structures, such as the National Manpower Commission.
2. The extension of labour legislation to previously unaffected sectors of the workforce, such as farm-workers and domestic employees.
3. Social policy issues like health care, AIDS, education and pension which are fast influencing the industrial relations relationship between employer and worker; and
4. Readmitance of SA into the international labour arena via organisations like the International Labour Organisation and the International Organisation of Employees.

"There is a need in SA for employees and employers to unite nationally on labour issues and SACOB has been active in influencing this where it can," Bezuidenhout says.

"This is important because, nationally, employees have to have stronger representation on bodies which deal with matters relating to industrial relations and if SA is readmitted to international organisations, it must speak with a united voice."

The committee deals proactively with labour issues and, as a member of Sacola, was party to the Saccola/Cosatu/Nactu labour accord which was three years in the making.

Botha says VAT and the impact labour unrest over this could have on the economy, the effect of labour relations on the economy and potential influence vo-

GERRIE BEZUIDENHOUT

ence has on industrial relations are among the topics which the committee is investigating.

"We try to ensure all labour relations issues are handled in such a way as to reduce conflict and increase understanding between the parties," he says.
JAPANESE companies will be hesitant to invest in SA as long as nationalisation remains possible, says Yoshiaki Murakame, economic consul in the Japanese consulate-general in Pretoria.

He says, "We are a capitalistic country and many Japanese companies will not hurry to invest in SA."

"We are keen to help black businessmen understand the expenses for two of a invested heavily in Canadian and Australian coal mines."

It is believed that a reason, they do so is to cause an over-supply which keeps prices down.

Mr Cook says, "The lifting of sanctions will allow us to sell more coal to Japan. But I expect the increase to be modest in the short term."

Exports are likely to fetch better prices because much SA coal was sold cheaply during sanctions to cement manufacturers. They can readily switch from coal to cheaper materials. More exports to Japan would go to power utilities which pay more.

Freeze

Mr Cook says long-term coal export prospects are encouraging because Australia supplies 70% of Japanese utilities needs. The Japanese also do not wish to depend on one supplier of a strategic commodity.

The Japanese Government acted a lot faster to remove sanctions — some of which have been in place for 20 years — than SA officials expected. Japans exporters, business and diplomatic relationships are more comprehensive than the most optimistic businessmen forecast.

Observers say this reflects the pressure the Foreign Ministry in Tokyo has come under since a high-level delegation from Japans Federation of Economic Organisations (Keidanren) visited SA last April.

Foreign Ministry officials stalled the announcement until the crucial vote at the UN on October 13 gave Japan its long-awaited seat on the Security Council.

Sanctions went within a week in spite of earlier suggestions that Japan would wait for the ANC to confirm that all political prisoners had been released.

Two-way trade between the two countries has risen from the freeze level of about $4 billion a year to between $6 billion and $8 billion, says SA Foreign Trade Organisation international manager David Graham.

Deputy Prime Minister Theo Alant has urged borrowers to explore the Japanese capital market, which is not a traditional source of funds for SA. Bankers believe trade credit lines with suppliers will expand quickly.
Soil Feral in World
SA Heros

Reparation bid would force individuals to pay third of their assets,
More and more in common

Gary Taylor is director of human resources at Medscheme.

The seeds of an interim "government" have already germinated in a number of areas within the SA society, but in a form not necessarily envisaged by the various players.

The model might not involve the United Nations (as happened in Namibia), nor a committee of Wise Men comprising politically neutral but widely credible referees. If certain current trends develop we might well see a "second tier" of policy-makers emerging in all major areas, which in effect runs the country by democratically devising policy on key issues. They could well go further by having a say in budgetary reallocation during this interim phase.

These committees would exist in each of the major functional groupings of government - security, finance, manpower, health, housing and so on; and would involve the major stakeholders in that particular field, not just the politicians.

The groupings, though cumbersome at first because of their size and the need for effective mandating, will form more democratic and acceptable forms of interim structures than any externally imposed caretaker government could. Parliamentary power would diminish considerably, as the legislature would be effectively rubber-stamping budgets and policies emanating from committee level.

There are some areas where such multilateral efforts are successfully under way and such initiatives could serve as models for other interim structures.

The labour relations field is perhaps the most developed of these, where the latest amendments (and proposed future changes) to the Labour Relations Act have been dubbed "the first post-apartheid legislation." To summarise the process, the major stakeholders in the labour arena got together to produce an accord which finally resulted in legislation being generated through the National Manpower Commission (NMC) for more enactment by parliament. Despite the recent tactical withdrawal from the NMC by Cosatu in order to ensure that it becomes more democratic and powerfully reconstituted, the body is certain to continue to drive policy and not the Department of Manpower.

Leading labour lawyer Halton Chendale articulated the vision recently by stating that "the thinking is that the NMC ought to have a special relationship to parliament as a policy body, that its powers relating to labour and the labour market must proceed through, before they are tabled in parliament. Though it will not usurp the sovereignty of parliament, it will play a policy formation role.

On the economic front, a number of moves have been made - again with organised labour and business deciding that this country's future economic survival, let alone growth, should not be left solely to politicians.

Recent press reports of behind-the-scenes working parties reflect high-level involvement through the Consultative Business Movement, Cosatu and others in creating an interim forum for economic policy. The prevailing thinking is that the economy cannot wait for a referendum, a new constitution or an all-party election.

The shift by Finance Minister Barend du Plessis, as hinted at the IMF conference, shows some evidence of government's readiness to consider a new approach. A new structure might by now have been established if the consultations with the VAT delegation had yielded a more widely acceptable compromise.

Even with VAT we saw a structure emerging, in which labour, consumer and even medical stakeholders formed a grouping to challenge old-style decision-making. Cosatu's Jay Naidoo has confirmed that the planned mass action is to support the "issue of process" rather than VAT per se. It has been proposed that the unions want these interim structures in place before a new government is elected to ensure their future survival and influence.

In health care, similar moves are under way. The unpopular amendments proposed to the outdated Medical Schemes Act are bound to be scuttled as the Minister gets buffeted by vested interests.

Recent calls by the Medical Association for the Bull to be referred to a joint consensus forum which enjoys representation by all role-players in the health environment will stand a better chance of achieving an acceptable redistribution of health.

Though security issues would originally have seemed to defy consensus, we have already seen some interim structures emerging in an attempt to combat violence.

Clearly, peace is the most elusive of goals at present, but the joint efforts of stakeholders, including church leaders, in the Peace Accord have given some direction. It is worth noting that acceptance was gained for the principle that the police owe allegiance to higher values than traditional line authority.

Peace initiatives at community level have enjoyed lower profile, but facilitating bodies have been achieving meaningful results in some areas.

The conclusions which could be drawn from the above examples - and there are several other working groups already in place, including on local government and telecommunications - is that we are already evolving an "interim government" within the present legislative framework. The National Party has already demonstrated a willingness to accommodate such initiatives and seems likely to be supportive of informal interim structures.

There are several major advantages to informal forums which harness the energies of vested interests, expert opinion, idealism and experience. They tap into democratic processes during the interim phase while the constitutional scene is still developing. This could relieve the polity of some of the work and deter government from ruling by decree - both now and in the future.
Small businesses urged to assist in labour legislation

VERA VON LIERES

Small businesses should not expect to be excluded from future labour legislation, National Manpower Commission acting chairman Frans Barker has said.

Speaking at a recent FSA-Contact annual labour law seminar, Barker said the commission had proposed that a facilitator be set up in the Department of Manpower to liaise with small business to ease potential problems small business may have with the department.

Barker said it was essential that small business employers involved themselves in the debate on future labour legislation and in employer associations to influence the process leading to new legislation.

He said a restructured Labour Relations Act (LRA) was now only likely to be implemented in 1994 due to current restructuring processes, including those taking place within the commission.

Recommendations which had been completed by the commission included the establishment of a small labour court which would serve as an informal forum for settling disputes — similar to the Small Claims Court.

The privatization of conciliation mechanisms through the establishment of private conciliation centres was also suggested.
Cosatu rejoins govt labour body for talks

FIVE weeks after its withdrawal from the National Manpower Commission (NMC), Cosatu will today join a meeting of the body at which Manpower Minister Eln Louw is expected to announce the extension of labour law to farm workers, and disclose his views on the commission’s restructuring.

Cosatu general secretary Jay Naidoo said yesterday the federation, together with Nactu, saw the meeting as an opportunity to resolve the disputes and eliminate the obstacles which led to Cosatu’s withdrawal on October 1.

Cosatu’s walkout was sparked by its perception that Louw was resisting the restructuring of the commission into a more authoritative body, and was delaying the extension of labour law to farm, domestic and public sector workers.

“Our withdrawal was not a matter of principle. However, we did not want to participate further in the NMC until there was a clearer timetable,” Naidoo said.

He said while Cosatu was to attend today’s meeting with existing commission members, this did not mean it had reversed its withdrawal. Nactu says it has never officially joined the commission.

Naidoo said the commission’s work was part of a negotiating process established as a consequence of the tripartite Labour Market Minute “We are committed to that process, and are going into the meeting to try to eliminate obstacles and set about the business of getting better labour legislation.”

He said Cosatu did not plan to raise the question of a national economic bargaining forum – the crux of this week’s stayaway – at today’s meeting. The meeting would focus on more easily resolved labour law and commission issues in dispute with the Manpower Minister.

It is understood Louw plans to tell the commission and other participants about a Cabinet decision to put before Parliament legislation for the partial extension of the Labour Relations Act (LRA) and the Wage Act to cover farm workers.

The LRA is likely to be extended almost in total. However, the commission, in its recommendations published in May, suggested a number of key adjustments to facilitate better labour relations.

It proposed a system of “no-strike” arrangements during peak seasonal farming periods, when disputes should be resolved through compulsory arbitration.

It also recommended the establishment of Small Labour Courts to deal with individual disputes of right, and the drafting of an unfair labour practice code applicable either to agriculture only or to all sectors covered by the Act.

The Wage Act, in terms of which minimum wages and conditions of employment are set for unorganised sectors, is likely to be substantially revised for its application to agriculture.

The commission was split between mostly union parties which wanted the Act to be fully applicable, and those opposed to any setting of minimum standards for agriculture. A middle view held that the Wage Board should make minimum wage recommendations which would not become law but serve as a guide to farmers.
Cosatu joins NMC talks

Own Correspondent

JOHANNESBURG — Cosatu will join a meeting of the National Manpower Commission (NMC) today, five weeks after it withdrew from the commission.

At the talks, Manpower Minister Mr Eli Louw is expected to announce the extension of labour law to farm workers, and disclose his views on the commission's restructuring.

Cosatu general-secretary Mr Jay Naidoo said yesterday the federation, together with Nactu, saw the meeting as an opportunity to resolve the disputes which led to Cosatu's withdrawal on October 1.
Revamp awaits manpower body

GOVERNMENT supported proposed changes to the National Manpower Commission which would make it broadly representative of the major employer and union organisations, Manpower Minister Elit Louw said at the weekend.

He was speaking after a meeting of the commission which was attended by Cosatu — the first since the labour federation withdrew five weeks ago.

Louw said he had put forward at the meeting his provisional views on restructuring the commission.

In essence Louw's view was that the commission should be restructured to incorporate employer and union organisations such as Cosatu and Saccola. The commission would then negotiate policy to reach a consensus and after this was achieved, make its recommendations to him and government.

"But it would remain advisory and it should be understood that such negotiations cannot bind me or the government. Parliament should retain the final say in respect of legislation," he said.

Louw said he told the commission that all labour legislation would be considered by the commission before submission to Parliament.

He added the commission should also have direct access to Parliament.

Any changes to the commission's relationship with Parliament should be made at the multiparty conference.

He added that if the commission did incorporate Cosatu, Nactu and Saccola, its recommendations would be seriously considered.

Louw said he did not know whether Cosatu and Nactu would reverse their decision of five weeks ago and rejoin the commission. As far as he was concerned, government had not been dragging its feet on restructuring the commission, nor on extending labour legislation to the agricultural sector — key Cosatu reasons for withdrawing from the commission.

Louw also released details on the extension of the Labour Relations Amendment Act and the Wage Determination Act to the agricultural sector which Cabinet had approved in principle.

The final decision on how these acts would be made applicable was subject to a process of wide consultation.

The Wage Act should be extended to agriculture, but with the proviso that its application be delayed for 24 months after approval by Parliament.

Louw said the commission's recommendation that the Labour Relations Act should provide for no-strike agreements under certain circumstances was acceptable.

Killers linked to right-wing fugitives

JONATHAN REES

Two men who committed suicide after killing a policeman and wounding another in an ambush in the Kalahari last week might be linked to the fugitive right-wing murder accused Adrian Maritz and Henry Martin.

Jurgen White, 22, and Johannes Grobelaar, 19, were members of the secret ultra-right-wing Kerk van die Skepper (Church of the Creator) in Pretoria, according to police.

Police said they were investigating the possibility the pair also belonged to the Orde Boerewolk (OB) — the same organisation as fugitives Maritz and Martin, who fled SA using false passports on October 23.

Martin and Martin, who recently ended a prolonged hunger strike in Pretoria hospital, are wanted on charges of murder and attempted murder relating to several bomb blasts last year.

At the time of the hunger strike, they were members of the ultra-right OB founded by Piet Rudolph, now a spokesman for the AWB.

OB leader Nc Strydom recently said he no longer had dealings with White and Grobelaar.
**Govt ‘yes’ to NMC changes**

From BILLY PADDOCK

JOHANNESBURG - The government supported far-reaching proposed changes to the National Manpower Commission which would make it broadly representative of the major employer and union organisations, Manpower Minister Eli Louw said at the weekend.

Louw said he supported a commission recommendation that the body be restructured to find as much consensus as possible on labour policy.

He was addressing a news briefing on Friday shortly after a meeting of the commission which was attended by Cosatu - the first since the labour federation withdrew five weeks ago.

Louw said he had put forward at the meeting his provisional views on reconstituting the commission, but he did not know if Cosatu would accept the terms and therefore rejoin it.

In essence Louw's view was that the commission should be restructured to incorporate trade union and employer organisations such as Cosatu and Saccola.

The commission would then negotiate policy to reach consensus and after this was achieved, make its recommendations to him and government.

"But it would remain an advisory and it should be understood that such negotiation cannot bind me or the government," he said.

Louw said he had also told the commission that all labour legislation would be considered by the commission before submission to Parliament.

He added the commission should also have direct access to Parliament. This will probably occur through the standing committee on labour legislation.

However, he said it was not desirable to restructure the commission with respect to its interaction with Parliament in such a way "as to pre-empt constitutional arrangements."

Any change to this arrangement should only be made at the multiparty conference "The question whether the commission should directly advise Parliament, without involvement of the Manpower Minister, should be dealt with in a representative political forum," Louw said.

He added that if the commission did incorporate the major union groupings (Cosatu and Nactu) and employer organisations (Saccola), its recommendations would be seriously considered "because it is not possible to ignore or totally reject the views of organisations that represent more than a million members."

**‘Kept small’**

Louw said he did not know whether Cosatu and Nactu would reverse their decision of five weeks ago and rejoin the NMC. As far as he was concerned, government had not been dragging its feet on reconstituting the commission, nor on extending labour legislation to the agricultural sector - key Cosatu reasons for withdrawing from the commission.

"In terms of our arrangement I undertook to give my views on the restructuring during the first week of November I have done this in accordance with that agreement so I have kept my side of the bargain," Louw said.

Regarding the commission's view that it should consist of about 25 members, in the proportion of 10 employers, 10 employees and 5 independents, Louw said the commission should be as small as possible, while still accommodating different views and interests.

Other recommendations include:

- Members should enjoy the confidence of their organisations and Louw was prepared to appoint or release members nominated if requested.
- The state as employer should not be represented on the commission, but the Commission for Administration could interact on request with the commission technical committees in respect of matters and employees within its jurisdiction.
- The Manpower Department could participate in commission proceedings in an advisory capacity with a view of processing information, but its participation could not bind the Minister or government.
- Louw also released details on the extension of the Labour Relations Amendment Act and the Wage Determination Act to the agricultural sector which Cabinet had approved in principle.

The final decision on how these acts would be made applicable was subject to a process of wide consultation with all interested organisations.

The Wage Act should be extended to agriculture, but with the proviso that its application be delayed for 24 months after approval by Parliament.

Louw said the commission's recommendation that the Labour Relations Act should provide for no-strike agreements under certain circumstances was acceptable.

He said the dispute settlement machinery should provide for more informal, simplified and less rigid procedures to facilitate theconciliation process.

The concept of a special court as a simplified and less expensive alternative to the Industrial Court was acceptable for the settlement of disputes between farmers and farm workers.

"It will have to be accepted, however, that, due to practical considerations, there will have to be a phasing in period," he said.

In principle the commission recommendation that a code of fair and unfair labour practices be drafted and given legal effect was also acceptable, but the most effective way of doing so would have to be fully investigated.
MANPOWER COMMISSION

DUE TO an editing error, Business Day yesterday reported Manpower Minister Edou Louw saying that any changes to the National Manpower Commission's relationship with Parliament should be made at the multiparty conference (164) (166).

In fact, Louw said it was not suitable to restructure the commission with respect to its interaction with Parliament in such a way "as to pre-empt constitutional arrangements".

The error is regretted. 14/11/91
<table>
<thead>
<tr>
<th><strong>LRA extension protest</strong></th>
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<tr>
<td>STRONG objection has been expressed by Free State Agricultural Union manpower committee chairman Tobie Basson to the announcement by Manpower Minister Els Louw that it had been decided in principle to extend the Labour Relations Act and Wage Act to agricultural workers.</td>
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Louw's move will not upset labour talks

MANPOWER Minister Eli Louw today relinquishes his Cabinet portfolio following yesterday's announcement that he had been appointed Acting Speaker of Parliament. However, Manpower Department sources said it was hoped this would not delay critical changes to labour law currently in the pipeline.

Justice Minister Koos Coetsee has been appointed Acting Manpower Minister, and Deputy Justice Minister Danie Schutte gains the additional post of Deputy Manpower Minister. The post of Education and Training Deputy Minister, held by Schutte until now, has been abolished.

A Manpower Department source said Louw would probably not have asked for the new appointment, as he had built important relationships with organised labour, and was putting into effect key tripartite labour relations agreements.

However the new position, left vacant after the death of Louis le Grange last month, required someone of Louw's stature.

The source said he did not believe the changes would cause delays in the processes of restructuring the National Manpower Commission and extending labour law to farm and domestic workers.

Decisions on these issues were effectively settled in principle and it remained only for departmental officials to sort out details.

A meeting between Louw and Cosatu and Nactu scheduled for November 19 to discuss the commission's restructuring would be cancelled. He said a meeting with the new Ministers was possible soon thereafter.
State under pressure on farmworkers' rights

By DREW FORREST

CONFLICTING pressures on government over the extension of labour laws to agriculture came under the spotlight this week, following its announcement that the Labour Relations Act and Wage Act are to be extended to farmworkers.

Welcoming the Cabinet's decision, the Congress of South African Trade Unions however attacked Manpower Minister Eli Louw's "refusal" to commit himself to amendments next year. This was at odds with the Laboria Minute, in which the government had agreed to "promise" new labour law for farm, domestic and state employees, it said.

It also took issue with Louw's pledge to allow further "extensive consultation with interested parties", saying this held out the threat of further delays and made nonsense of broad consultation already undertaken by the Manpower Department and the National Manpower Commission (NMC).

Louw also described as "reasonable" a majority NMC proposal of a two-year delay in implementing the Wage Act in respect of agriculture. Cosatu opposes any delay.

The two most conservative regions of the South African Agricultural Union also attacked the government's pledge to bring farmworkers under the two statutes, but from a very different perspective.

Saying it was "shocked" by the announcement, the Transvaal Agricultural Union said the legislation would "force farmers to rationalise, meaning large-scale dismissal of farmworkers". Food prices would rise and entrepreneurship suffer, it said.

Complaining that the government was proceeding with the amendments despite farmers' "well-formulated objections", the Free State Agricultural Union warned of "a negative effect on the already hard-pressed industry and the consequent estrangement of employers and employees".
accommodate the special circumstances of agriculture as far as possible."

Amendment Bills will be put through parliament as soon as possible and further comment will be invited before final Bills are presented.

The proposal to extend the two Acts to farm workers was submitted by the National Manpower Commission (NMC). It recommends there should be provision in the Labour Relations Act for no-strike agreements - a kind of seasonal peace obligation during harvest time - and that such agreements should be enforceable. Louw accepts this.

He also believes that dispute settlement machinery should provide for more informal, simplified procedures to ease conciliation - though this would to some extent depend on what the parties prefer. A simpler, cheaper alternative to the Industrial Court will have to be introduced. The idea of a special court seems acceptable, says Louw.

The NMC also recommends that a code of fair and unfair labour practices should be drafted and given legal effect.

The Minister thinks it "reasonable" that the Wage Act could be extended to farming with the proviso (backed by the majority on the NMC) that its application should be delayed for 24 months after approval by parliament.

Even then, this does not mean that a wage determination will apply to agriculture. "It seems advisable to give the industry a fair opportunity to negotiate its own conditions of employment," says Louw. This explains the need for the 24-month delay. Any wage determination has to be handled with great care because of the effect it could have on farmers' ability to continue in business and on jobs. These are the ostensible reasons for the Free State farmers' objections.

Cosatu and Naactu attended last Friday's meeting "in an observer capacity" to hear Louw's provisional views on farm workers' rights as well as the restructuring of the NMC - the issue on which Cosatu last month withdrew from it.

While welcoming Cabinet's in-principle decision on farm labour, Cosatu says the Minister's refusal to make any commitment to introduce draft legislation in the next session of parliament is at odds with government's commitment to "prioritise" labour law for agricultural, domestic and State employees in terms of the Laboris Minute signed last year.

The further consultation Louw speaks of also suggested more delays and makes nonsense of the very long and broad consultation already done via the NMC and Manpower Department, says Cosatu.

The union federations also "believe that the Minister's statement on the restructuring of the NMC offers a glimmer of hope that an acceptable dispensation can be reached."

However, certain key issues have yet to be negotiated and resolved, says Cosatu and Naactu. These include agreement on a formula for representation which will ensure that the NMC can be an effective negotiating forum; ensuring a single process of negotiation and consultation which includes the Department of Manpower "within the ambit of the NMC;" and inclusion of public sector employers and workers in the NMC to ensure balance.

Louw - whom the unions say is "not likely to act in the same unilateral way as his colleague, Finance Minister Barend du Plessis, especially given the conflict that resulted from his handling of the VAT crisis" - accepts the NMC's majority recommendation that it should be a consensus-seeking body. But it "should remain advisory." This implies, says Louw, "that there could be negotiation regarding labour policy within the NMC to attain such consensus. It should be understood, however, that such negotiation cannot bind me or government."

The unions are to meet Minister Louw for further discussion on Tuesday. Then they will "evaluate their current positions in relation to the NMC on the basis of the Minister's response."

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**Labour Law**

**Moving closer again**

*By 15/11/91*

Government's acceptance in principle that the Labour Relations Act and Wage Act should be extended to agriculture has been welcomed (with slight reservations) by Cosatu and slammed by the conservative Free State Agricultural Union.

Announcing the Cabinet's endorsement of basic labour rights for farm workers, Manpower Minister Eli Louw said that this would take place only after the "widest possible consultation and consensus-seeking to
Louw blow for labour relations

By DREW FORREST
THE abrupt move of Eli Louw from the manpower portfolio is seen by unionists as a victory for Cabinet hawks and a major setback for embryonic tripartism on the labour front.

Louw is known to favour strongly the participation of the labour movement in the framing of labour law and socio-economic policy, has been appointed acting minister of parliament Justice Minister Kobie Coetsee takes over as acting manpower minister, while deputy Justice Minister Danie Schutte has been appointed deputy minister of manpower.

The move takes place against the backdrop of a strong push on various fronts for intermin rule and hardening cabinet attitudes to a perceived challenge to the government’s authority.

Incensed by last week’s VAT stayaway and by the dropping of the South African flag and anthem for the Olympics, the cabinet has reportedly decided to move on to the offensive against the African National Congress and its labour ally, the Congress of South African Trade Unions.

Leading cabinet resistance to “interim government by stealth” are said to be Finance Minister Brundt du Plessis, Law and Order Minister Hermus Kriel and Coetsee.

Du Plessis’ hard-line approach over VAT is said to have sparked open conflict in the cabinet, while Kriel told the Sunday press before the VAT stayaway that Cosatu demands for a direct role in economic and political restructuring were “unacceptable and would be resisted”.

Under Louw, the Manpower Department has been in the forefront of moves towards co-determination. In terms of the historic “Laboria Minute” last September, it conceded black labour’s right to say in new labour legislation, and Cosatu has since had a critical influence in framing law on farmworkers through the National Manpower Commission.

Louw is also known to have been a strong advocate within Cabinet circles of a negotiating forum on broad economic policy involving the trade unions. The creation of such a forum was a key union demand in the VAT stayaway.

Although he has not entirely escaped union criticism, Louw has shown a flexibility and openness to black union concerns in stark contrast to the approach of his predecessor, Pietie du Plessis.

Unofficial government comment on Louw’s loss of the manpower portfolio has been soothing. Officials have been quoted as saying they did not view it as a demotion and that Louw had indicated he would like a less stressful job.

They also reportedly said that his decision might have been influenced by the fact that his wife was unwell.

But within the Manpower Department there are doubts about whether Louw requested the move. Sources point out that he was at the centre of a range of sensitive talks with labour on new legislation and the restructuring of the National Manpower Commission.

“We’re convinced he’s been shafted,” said a leading unionist, who asked not to be named.

“The timing of the move is important. We seemed to be moving towards a macro-economic forum and Cosatu and Nactu were due to meet him for vital talks next week.”

It has been reported that the government has cancelled the talks, set for November 19, but that a meeting with the new minister may take place soon afterwards.

Unionists now fear that progress towards an economic forum and the restructuring of the NMC to provide for an expanded union role may be jeopardised. Cosatu wants the NMC relocated into a forum in which advice to the minister on labour law is negotiated by the main actors in the labour field.

See Page 17
Tight-rope balance

LABOUR law proposals on the closed-shop agreement — membership of a trade union becomes a condition of employment — are akin to a tight-rope act.

The National Manpower Commission's draft for a consolidated Labour Relations Act offers a delicately balanced freedom of association and "freedom of disassociation" mix.

It is proposed that all workers belong to a particular trade union if two-thirds, voting by secret ballot, are in favour.

But the agreement can be terminated if more than 50% of workers — again voting by secret ballot — are against it.

To hold the ballot, 10% of workers would have to petition the Industrial Registrar.

Several closed-shop agreements are in operation and have been negotiated through industrial councils.

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The moderate Trade Union Council of SA (Tusca), now defunct, comprised many unions involved in these agreements.

Cosatu unions, often vying for membership with these Tusca counterparts, saw the closed-shop as an obstacle.

But matters have changed.

Cosatu's 165,000 member SA Clothing and Textile Workers Union (Saetwu) endorsed the closed-shop principle at its congress this year.

Two former Tusca affiliates, now part of Saetwu, had closed-shop agreements with industrial councils in the Cape and Natal.

Saetwu has kept the closed-shop agreements going.
Public service blacks

in new demand

By ADRIAN HERSCH

A COSATU union has made affirmative action demands in pay talks involving the public service.

The National Education Health and Allied Workers Union (Nehawu) first seeks to get an "in-principle" agreement on the need for affirmative action. The working details would be settled later.

Nehawu general secretary Susa Nkwalana says demands centre on skills upgrading, promotions and appointments.

He stresses that the union wants affirmative action not only in terms of race but gender.

The union also demands a minimum wage of R1 000 a month.

Mr Nkwalana says the affirmative action plan will not lower standards.

Issue

"The fact that we are seeking skills upgrading means that we do not want to see people promoted without the adequate qualifications."

The union wants the programme to be jointly run by labour and management.

The Commission for Administration (CFA) has not yet commented on the affirmative action demand.

However, CFA chairman Piet van der Merwe has previously said that blacks already outnumber whites in the public service.

The union's demands indicate that affirmative action will become a major industrial relations issue in years to come in all sectors.

The pay talks in the public service will begin at the end of January through an "interim national bargaining forum."

The forum includes 11 staff associations and trade unions and the CFA.

The parties have held discussions in the past year to consider new legislation for public servants to give them full labour rights.

Degree

A draft Bill, released recently, may become the Public Service Labour Relations Act in 1993.

It is similar to the Labour Relations Act and would allow State workers access to the Industrial Court and the Labour Appeal Court.

The head of the mostly white Public Servants Association (PSA), Hans Olivier, says the 11 associations and unions achieved a remarkable degree of agreement on the proposed legislation.

CFA spokesman Hannes du Preez says the drafting committee will meet again in December.

He says the proposed legislation will cover about 460 000 State employees.
Setback for deregulation

THE National Manpower Commission (NMC) report on small business, due to be published early next year, does not exclude the estimated 2.2-million workers in that sector from major provisions of the Labour Relations Act (LRA).

The decision will disappoint proponents of deregulation.

Some Western European countries exempt small businesses from laws restricting employment termination in Italy and France, for instance, this applies where fewer than 15 and 19 people respectively are employed.

The NMC does not propose concessions of this nature.

Its recommendations largely relate to streamlining dispute procedures under the LRA and aim to simplify administrative procedures required under other labour Acts.

Issue

The NMC proposes that although small businesses should not be excluded from the LRA, guidelines should be drawn up for them, particularly about disputes.

Where there are disputes the parties should be encouraged to negotiate or discuss their differences before references to an industrial council or conciliation board.

By ADRIAN HERSCH

If discussions cannot resolve the issue, mediation and arbitration are encouraged. The NMC proposes that arbitration costs be subsidised by the State.

Small businesses have been exempt from new wage determinations since 1995 under the Wage Act and the NMC does not recommend any change.

The Basic Conditions of Employment Act is not seen as "restrictive", but the report recommends that it be simplified, especially with regard to record-keeping.

Artificial

Some interest groups wanted the small business definition to apply to those with fewer than 25 employees.

But the NMC proposes that only "micro-businesses"—where there are no more than five employees—should qualify for concessions.

Other requirements include that the business have an annual turnover of less than R250 000 and that it is managed and controlled by the owner.

The report says provision must be made to thwart attempts by employers to artificially set up smaller concerns to qualify as a small business.
Labour: Courts or constitution?

By DREW FORREST

At a glance, the 12-article section on worker rights in the African National Congress' draft Bill of Rights seems absurdly detailed.

The right to form unions, bargain collectively and strike — fair enough. But is there really a need to protect the right to pocket, to "reasonable" union access to company premises and to the deduction of union dues "where appropriate"?

ShoulOnt's such relative minuteness, evidently included at the behest of the ANC's labour ally, the Congress of South African Trade Unions, be dealt with in statute law or collective agreements?

Also enshrined in section 6 of the ANC's Rights Bill — which covers workers and unions — are union rights to participate in lawful political activities and to form national federations and join international federations, the right to strike, and the right to strike for equal pay for equal work and equal access to employment, and rights to state-provided pension, unemployment and workplace injury benefits.

Internationally respected labour law expert Bob Heppele, of the University College of London, certainly believes ANC proposals to be off-mark. He has written to the ANC arguing that section 6 should be largely enacted in ordinary labour law, rather than in the constitution.

Heppele is vitally concerned that the nurture of progressive labour legislation in South Africa requires "an autonomous labour court administering a self-contained system of labour law." If article 6 is dropped holus-bolus into the constitution, he argues, the Constitutional Court, whose premises may set in motion of labour law, may have to determine fundamental labour law issues.

Hepple believes no more is needed than constitutionally guaranteed rights to freedom of association, to form and join unions, to bargain collectively and to strike, subject to certain limitations.

Legal advisor to Cosatu Halton Cheadle concurs: the danger, but argues that a balance has to be struck between giving labour too little protection and putting too much in the hands of an unspecialised court.

"Consider what happened under (former British premier) Margaret Thatcher. There was no British court to strike down laws which substantially undermined trade union rights and were severely critised by the International Labour Organisation." A possible compromise, he said, would be to second an officer of the Labour Appeal Court as an ex officio member of the Constitutional Court when labour matters were at issue.

Cheadle defends section 6 by arguing that the job of a democratic constitution must be to protect and foster collective bargaining within a common law system which is fundamentally hostile to it.

"The law must provide a protective arena in which unions and employers can both exercise power, and in that context negotiate with each other," he said.

Unlicensed picketing, for example, has been typically prosecuted in South Africa as a form of illegal advertising.

Property and privacy rights preclude automatic union access to companies and to the disclosure of "such information as may be reasonably necessary," another right enshrined by section 6.

What of the "left" argument that by encouraging too much reliance on the government, one may indirectly sap the labour movement's organisational vitality? Isn't the ultimate guarantee of rights the collective power of "civil society"?

"We've had 50 years of the all-powerful state, and we've seen what that has done," Cheadle said.

"In South Africa, civil society consists of a couple of struggle organisations." "I accept that you need people to insist on and defend constitutional rights. At the same time, you've got to entrain freedom of association, to protect associations from the state. You've got to have a framework within which civil society can thrive."
Mystery man Marais takes over as Manpower Minister

By FERIAL HAFFAJEE
SOUTH AFRICA'S incoming Manpower Minister is a mystery man.

Employers and unionists this week were for once unanimous, declaring that they knew nothing of his reputation and had never had dealings with him.

Even a senior department representative could shed no light on the qualifications of new boss. "I don't know him at all," he said this week.

Pieter Gabriel Marais (59) is State President FW de Klerk's choice for the hot seat at the Department of Manpower. He will take office on January 20 next year.

With a law degree from the University of Stellenbosch, he was a practicing attorney and wine farmer until 1982 when he became MP for Stellenbosch.

A senior labour consultant this week described Marais as a "vergte." "We hear that he is a liberal and we welcome this," confirmed Bangumzi Khumalo of the Congress of South African Trade Unions.

"But we feel that the continuity of negotiations is going to be affected."

He explained that trade unions have had to deal with three ministers in the past three months.

After El Houw's dismissal, Kobie Coetzee was appointed acting minister and last week De Klerk announced the appointment of Marais as new minister in last week's cabinet reshuffle.

Khumalo said Coetzee had promised to come back to Cosatu in the new year on the developments around proposed legislation for farm and domestic workers. Now, the federation believes it will have to negotiate a meeting with the new minister to rehash the same issue, stalling the legislation even longer.

Marais' expertise appears to be education. With only a short stint on the Combined Committee for Legislation on Land Reforms, most of his parliamentary career has been spent in education departments.

He was chairman of the Combined Committee for Education, and the Deputy Minister of Education and Development Ad until the end of August this year.

From September 1, he was Minister for Administration and from October 1, he was also Minister of Education and Culture for the House of Assembly.
NUM application turned down

THE Industrial Court on Friday dismissed an urgent NUM application for the temporary reinstatement of more than 4 000 workers fired two weeks ago at Doornfontein gold mining company, a Gold Fields of SA spokesman said yesterday.

The application was dismissed with costs on the grounds that there was no urgency in the matter, the spokesman said.

And in another development, the Pretoria Supreme Court on Friday granted the company a provisional order allowing it to evict dismissed workers. In terms of the order, the workers and the union will be given an opportunity on Wednesday to show cause why it should not be made final, the spokesman said.

NUM acting general secretary Marcel Golding could not be reached for comment yesterday.

Workers were dismissed after they embarked on an illegal strike two weeks ago.

Doornfontein announced last week that it had applied to the Supreme Court for an order evicting the dismissed workers who were occupying mine territory. It said accommodation occupied by the fired workers was needed to accommodate a new workforce.

The illegal strike had led management to conclude that if the mine was to have a future, it needed a reliable workforce.

Golding said management had failed to accept several union proposals aimed at effecting a return to work of the dismissed workers.
LABOUR LEGISLATION

1992
Common regional labour law sought

MOVES to transform the entire southern African region into a cohesive economic community should include a programme to create a common labour law system.

This is the view of UCT labour law unit researcher David Woolfrey, who believes a "harmonised and enlightened" labour system is essential to balanced and equitable economic development.

Writing in the Industrial Law Journal, Woolfrey said investors had to contend with an industrial relations environment that varied considerably from country to country.

"Transnational" investors in southern Africa faced a multiplicity of labour law systems," he said.

"Workers shed rights and obligations, and acquire new ones, as they move across national frontiers," Woolfrey said.

He noted the need for labour law harmonisation was possibly more pressing in southern Africa than in Europe because sharp disparities in wage levels and general conditions of service would increase the temptation for "social dumping" as countries competed for scarce foreign investments.

"Those countries with a high rate of unionisation and well-developed labour law systems may find themselves outside the market for capital by those offering a haven from labour strife and a relatively cheap supply of labour," he said.

The approximation of labour standards, Woolfrey said, would go a long way towards averting this process.

Investors will not be able to shop around for the most docile and legally handicapped workforces.

"Workers will not have to move in search of basic minimum working conditions and organisational rights," Woolfrey said.

Opposition to a harmonised labour law system was likely, though, he added, because the typical Third World problems of poverty, high inflation, unemployment and lack of technology and skills meant a high premium was placed on employment creation and economic growth.

"Inevitably, pressures for economic deregulation and the provision of investment incentives in the form of cheap labour, a union-free environment, will run counter to any calls for labour law harmonisation," Woolfrey said.

But Woolfrey stressed that an enlightened labour system was essential and would promote industrial democracy thus contributing to overall social consensus and stability.

"The SA Commercial Catering and Allied Workers' Union has already initiated demands for regional wage bargaining and has formed alliances with unions in Namibia, Botswana and Swaziland.

Those interested in promoting sound industrial relations policies and practices in southern Africa, Woolfrey said, should do everything within their power to ensure labour issues were placed squarely on the agenda of current regional political and economic planning.
DEPARTEMENT VAN JUSTISIE

No. R. 161  10 Januari 1992

REËLS KRAQTENS ARTIKEL 17A (7) VAN DIE WET OP ARBEIDSPERHOUDINGE, 1956 (WET NO 28 VAN 1956), MET BETREKKING TOT DIE VOER VAN VERRIGTINGE IN DIE ARBEIDSPAPPELHOF

Die Minister van Justitie het kragtens artikel 17A (7) van die Wet op Arbeidspersoonlighede, 1956 (Wet No 28 van 1956), na oorelg met die Minister van Mannekrig, wat oorelggepleeg het met die Reisraad wat by artikel 17 (22) van genoemde Wet ingestel is, die reëls in die Bylae gemaak.

BYLAE

REËLS MET BETREKKING TOT DIE VOER VAN VERRIGTINGE IN DIE ARBEIDSPAPPELHOF

Woordomsksrywing

1. In hierdie reëls het 'n woord of uitdrukking waarvan 'n betekenis in die Wet of die reëls uitgevaardig kragtens artikel 43 van die Wet op die Hooggeregshof, 1959 (Wet No 59 van 1959), gelees met artikel 6 (3) van die Wet op die Reisraad vir Geregshowe, 1985 (Wet No. 107 van 1985), gehet, word die betekenis aldaar daaraan geheg, en tensy die samehang anders blyk, beteken—

"appèl" 'n appèl bedoel in artikel 17 (21A) van die Wet,
"dag" 'n hofdag;
"die Wet" die Wet op Arbeidspersoonlighede, 1956 (Wet No 28 van 1956),
"griffier", met betrekking tot die arbeidspappep, die griffier bedoel in artikel 17A (6) van die Wet

Appèl

2. (1) 'n Appèl moet binne 40 dae na die datum van aankeuring daarvan voortgesit word, by ontstentenis waarvan die appèl deur verslyfing van genoemde tydperk verval, in welke geval 'n respondent die reg het om 'n bevel vir sy verkrywe koste te vra.
(2) Die voorskrif van 'n appèl bring ipso facto die voorskrif van 'n aangekeende teenappèl teweeg
(3) (a) Indien 'n teenappèl aangekeken is en die appèl verval, verval die teenappèl ook, tensy 'n datum vir die aanhebring daarvan binne 20 dae na die datum van verval van die appèl deur die griffier aangevra word

DEPARTMENT OF JUSTICE

No. R. 161  10 January 1992

RULES IN TERMS OF SECTION 17A (7) OF THE LABOUR RELATIONS ACT, 1956 (ACT NO 28 OF 1956), REGULATING THE CONDUCT OF THE PROCEEDINGS OF THE LABOUR APPEAL COURT

The Minister of Justice has, under section 17A (7) of the Labour Relations Act, 1956 (Act No 28 of 1956), after consultation with the Minister of Manpower, who consulted the Rules Board established by section 17 (22) of the said Act, made the rules in the Schedule

SCHEDULE

RULES REGULATING THE CONDUCT OF THE PROCEEDINGS OF THE LABOUR APPEAL COURT

Definitions

1. In these rules a word or expression to which a meaning has been assigned in the Act or the rules promulgated under section 43 of the Supreme Court Act, 1959 (Act No 59 of 1959), read with section 6 (3) of the Rules Board for Courts of Law Act, 1985 (Act No 107 of 1985), shall bear the meaning so assigned to it and unless the context otherwise indicates—

"appeal" means an appeal referred to in section 17 (21A) of the Act,
"day" means a court day;
"registrar", with reference to the labour appeal court, means the registrar referred to in section 17A (6) of the Act,
"the Act" means the Labour Relations Act, 1956 (Act No 28 of 1956)

Appeals

2. (1) An appeal shall be prosecuted within 40 days after the date of noting thereof, failing which the appeal shall lapse after the expiry of the said period, in which event a respondent shall have the right to apply for an order for his wasted costs
(2) The prosecution of an appeal shall ipso facto operate as the prosecution of any cross-appeal which has been noted
(3) (a) If a cross-appeal has been noted and the appeal lapses, the cross-appeal shall also lapse, unless application for a date of hearing thereof is made to the registrar within 20 days after the date of the lapsing of the appeal
(b) Die Hof waarma geappelleer word, kan op aan-
soek van die appellant of teenappellant en by aanvoe-
ning van goeie gronde 'n appel of teenappel wat verval
het, terugplaas

(4) (a) 'n Appellant moet binne 30 dae na aanleke-
neming van appel 'n kennisgewing aflêer waarne sy volle-
dige woon- en posadress en die adres van sy prokureur,
indien hy verteenwoordig word, vervat is en waarmee hy
der griffier versoek om 'n datum van aanhonging van die
appel te bepaal

(b) By ontstentenis van 'n in paragraaf (a) bedoelde
aanvra kan die respondent te eniger tyd tyd voor ver-
stryking van die in subreel (1) bedoelde tydperk op
dergelyke wyse 'n datum van aanhonging van appel aan-
vaar

(c) By ontvangs van 'n in paragraaf (a) of (b) be-
doelde aanvraag deur die griffier word die appel by
toepassing van hierdie reëls geag behoorlik voortgesit
teweeg

(d) 'n Aanvraag by die griffier soos in paragraaf (a) of
(b) bedoel, moet van die afknipte van die betrokke
ooronde vergesel gaan

(5) (a) 'n Party wat 'n appel wil teenstaan, moet
binne 15 dae na die datum van aflewens van die in
subreel (4) (a) of (b) bedoelde aanvraag die griffier en
die ander party van 'n kennisgewing voorso na 'n
adres bevat waar so 'n party enige dokument betref-
fende die appel of 'n afknipte daarvan sal aanvaar.
Met dien verstande dat indien 'n party in gebreke bly om so
'n adres aldus te voorsien, dit nie nodig sal wees om so
'n dokument of 'n afknipte daarvan aan so 'n party te
verskaf nie, tensy die arbeidsappelhof anders beveel

(b) Die aansoeker moet binne 10 dae na verstryking
van die in paragraaf (a) bedoelde tydperk 'n afknipte van
die ooronde aan alle partye wat aan die bepaling van
paragraaf (a) voldoen het, verskaf

(c) Enige dokument betreffende die appel, of 'n
afknipte daarvan, wat inegvolge hierdie reëls verskaf
moet word aan 'n party wat aan die bepaling van para-
graaf (a) voldoen het, moet na die in paragraaf (a)
bedoelde adres gestuur word

(6) (a) By ontvangs van 'n in subreel (4) (a) bedoelde
aanvraag moet die griffier in ooree by die betrokke
Regter-president 'n datum van aanhonging van die
appel bepaal, welke datum minstens 40 dae na die
datum van ontvangs van so 'n aanvraag moet wees,
tensi alle partye by die appel skriflik tot 'n vroeë
datum toestem. Met dien verstande dat die griffier nie
stappe doen om 'n datum van aanhonging te bepaal
alvorens daar na sy oordeel voldoen aan die bepa-
lings van subreel (8), geloos met subreels (4) (d) en (9)
(a) en (b) (i) en (ii), nie

(b) Die griffier moet die betrokke aansoeker om 'n
datum onverwyld, na bepaling van 'n datum van aan-
hong van die appel, skriflik kennis van die datum
gee

(c) Die aansoeker moet onverwyld na ontvangs van
'n in paragraaf (b) bedoelde kennisgewing 'n kennis-
gewing van terrolleplasing aan die griffier en aan die
party wat aan die bepaling van subreel (5) (a) vol-
doen het, verskaf

(7) 'n Terrolleplasing van 'n appel bring ipso facto
die terrolleplasing van 'n teenappel teeweg, en omge-
keerd

(b) The court to which the appeal is made may, on
application of the appellant or cross-appellant, and
upon good cause shown, reinstate an appeal or cross-
appeal which has lapsed

(4) (a) An appellant shall, within 30 days after noting
an appeal, deliver a notice in which his full residential
and postal address and the address of his attorney,
if he is represented, are contained and in which he re-
quests the registrar to determine a date for the hearing
of the appeal

(b) In the absence of a request referred to in para-
graph (a) the respondent may, at any time before the
expiry of the period referred to in subrule (1), request in
a like manner the determination of a date for the hear-
ing of the appeal.

(c) Upon receipt by the registrar of a request referred
to in paragraph (a) or (b) the appeal shall, for the pur-
poses of these rules, be deemed to have been duly
prosecuted.

(d) A request to the registrar referred to in paragra-
ph (a) or (b) shall be accompanied by three copies of the
record concerned

(5) (a) A party who wishes to oppose an appeal shall,
within 15 days after the date of delivery of the request
referred to in subrule (4) (a) or (b), provide the registrar
and the other parties with a notice which contains an
address at which such party will accept any document
concerning the appeal or a copy thereof. Provided that
if a party fails to so provide such an address it shall not
be necessary to furnish any such document or a copy
thereof to such party unless the labour appeal court
orders otherwise.

(b) The applicant shall, within 10 days after expiry of
the period referred to in paragraph (a), furnish a copy of
the record to all parties who have complied with the
provisions of paragraph (a)

(c) Any document concerning the appeal, or a copy
thereof, which in terms of these rules shall be furnished
to a party who has complied with the provisions of para-
graph (a) shall be forwarded to the address referred to
in paragraph (a)

(6) (a) Upon receipt of a request referred to in sub-
rule (4) the registrar shall, in consultation with the
Judge President concerned, determine a date for the
hearing of the appeal, which date shall be at least 40
days after the date of receipt of such request, unless all
parties to the appeal consent in writing to an earlier
date. Provided that the registrar shall not take steps to
determine a date of hearing until in his opinion the
provisions of subrule (8) read with subrules (4) (d) and
(9) (a) and (b) (i) and (ii) have been complied with

(b) The registrar shall forthwith, after determining a
date for the hearing of the appeal, give the applicant for
a date concerned written notice of that date

(c) The applicant, after receipt of a notice referred to
in paragraph (b), shall forthwith furnish the registrar
and the parties who have complied with the provisions
of subrule (5) (a) with a notice of set-down

(7) A notice of set-down of an appeal shall ipso facto
operate as a set-down of any cross-appeal, and vice
versa
(8) (a) Die in subreel (d) bedoelde oorkonde, wat van 'n inhoudsopgawe voorsien moet wees, moet 'n juste en volledige weergawe van die pleistukke en die getuigens van alle dokumente wat vir die beregning van die appel nodig is, bevat.

(b) Elke afskryf van die oorkonde moet—
(i) duidelik met dubbele spanning op A4-standaard papier getik of gedruk wees,
(ii) gepagineer wees en elke tende reël op elke bladsy moet genoem word, en
(iii) as juis gesertifieer wees deur die prokureur of party wat dit indien, of deur die persoon wat die oorkonde voorberei het.

(9) (a) Behalwe vir sover dit die meriete van die appel raak, word afskryfte van getuijnswaardigings, kennisgewings van verhoor, toestemming tot uitstel, opgawes van dokumente, kennisgewings om blote te lê of insae toe te laat en ander dokumente van formele aard uit afskryfte van die oorkonde weeggaat, maar 'n lys van sodanige dokumente moet bygevoeg word.

(b) (i) Met die skriflike instemming van al die partye by die appel kan enige bewysstuk of ander gedeelte van die oorkonde wat nie op die geskoolpunt op appel betrekking het nie, uit afskryfte van die oorkonde weeggaat word.

(ii) Indien 'n bewysstuk of ander gedeelte van 'n oorkonde aldus uit 'n afskryf daarvan weeggaat word, moet bedoelde skriflike instemming die onvolledige afskryfte van die oorkonde wat by die griffier ingediend word, vergezel.

(iii) Ondanks die bepaling van subparagraf (ii) kan die hof wat die appel aanhoor, te enger tyd die oorspronklike volledige oorkonde aanvaar en kennis neem van alles wat daarin voorkom.

(10) (a) 'n Appellant moet minstens 15 dae voor die datum van aanhoring van 'n appel 'n bondige opgawe van die hoofpunte wat hy op appel wil aanvoer, tesaame met 'n lys van die bronne wat ter stawing van elke punt aangegaan sal word, aan die griffier en alle partye wat aan die bepaling van subreel (5) (a) voldoen het, verskaf. Met dien verstande dat twee addisionele afskryfte van die opgawe en lys in die geval van die griffier verskaf moet word.

(b) 'n Respondent moet minstens 10 dae voor die datum van aanhoring van 'n appel 'n dergelike opgawe en lys van bronne aan die griffier, die appellant en al die ander partye wat aan die bepaling van subreel (5) (a) voldoen het, verskaf. Met dien verstande dat twee addisionele afskryfte van die opgawe en lys in die geval van die griffier verskaf moet word.

Dringende appèl

3 Ondanks die bepalinge van hierdie reëls en on-geaag die datums bepaal vir die aflowering van die stukke in regel 2 (10) bedoel, kan die Regt-der president van die Provinciale Afdeling van die Hooggeregshof wat regsbevoegdheid het in dié afdeling waarvoor 'n arbeidappèl of ingestel is of 'n regter wat in dié algemeen of 'n daaroplike geval deur sodanige Regt-president vir die betrokke doel aangeweys is, op aan-zoek van 'n party wat by 'n appel betrokke is en na aanhoor van die ander betrokke partye, gelas dat 'n voorgestem appèl of dringende aangeleenthed behandel word en beveel dat dit afgehandel word op die tyd en wyse wat hy goedgee.
Algemene bepaling

4 Vir sover hierdie reëls nie in verband met 'n appel vir 'n besondere aangeleenthed voorsiening maak nie, is die reëls uitgevaardig kragtens artikel 43 van die Wet op die Hooggeregshof, 1959 (Wet No 59 van 1959), geleë met artikel 6 (3) van die Wet op die Reellaard vir Geregshewe, 1985 (Wet No 107 van 1985), behoudens die ander bepaling van hierdie reëls en die bepaling van die Wet, mutatis mutandis op die aangeleenthed van toepassing.

Inwerkingtreding

5 Hierdie reëls tree op 17 Januare 1992 in werking.

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DEPARTEMENT VAN LANDBOU

No. R. 244  10 Januarie 1992

BEMARKINGSWET, 1968 (WET No 59 VAN 1968)
AARTAPPELSEKEMA HEFFING EN SPESIALE HEFFING WYSIGING

Ek, André Isak van Niekerk, Minister van Landbou, maak hierby ingevolge artikel 79 van die Bemarkingswet, 1968 (Wet No 59 van 1968), bekend dat—

(a) die Aartappelraad bedoel in artikel 6 van die Aartappelsekema gepubliseer by Goewermentskennisgewing No R 2400 van 25 November 1968, soos gewysig, kragtens artikel 27 van genoemde Skema die Bylaas by Goewermentskennisgewing No R 120 van 27 Januare 1989, soos gewysig, verder gewysig het in die mate in die Bylaas hierby uitgegestel, en

(b) genoemde wysiging deur my goedgekeur is en op die datum van publicasie hiervan in werking tree.

A. I. VAN NIEKERK,
Minister van Landbou

BYLAE


"Bedrag van heffing en spesiale heffing"

3 Die bedrag van die heffing en spesiale heffing in klousule 2 bedoel, is onderskeidelik 8,3c (BTW ingesluit) per 10 kg-aartappels en 1,7c (BTW ingesluit) per 10 kg-aartappels.

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DEPARTEMENT VAN MANNEKRAG

No. R. 167  10 Januarie 1992

WET OP ARBEIDSWERHOUINGE, 1956
ELEKTROTEGNIESE NYSWERHEID, OOS-LONDEN HERNUIWING VAN HOOFOOREENKOMS

Ek, Donald Charles Moody, Direkteur Arbeidsverhoudinge, behoorlik daartoe gemagtig deur die Minister van Mannekrag, verklaar hierby, kragtens artikel 48 (4) (a) (ii) van die Wet op Arbeidsverhoudinge, 1956, dat die bepaling van Goewermentskennisgewings R 1749 van 17 Augustus 1984, R 1363 van 21

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DEPARTEMENT OF AGRICULTURE

No. R. 244  10 January 1992

MARKETING ACT, 1968 (ACT No 59 OF 1968)
POTATO SCHEME LEVY AND SPECIAL LEVY AMENDMENT

I, Andre Isak van Niekerk, Minister of Agriculture, hereby make known in terms of section 79 of the Marketing Act, 1968 (Act No 59 of 1968), that—

(a) the Potato Board referred to in section 6 of the Potato Scheme published by Government Notice No R 2400 of 25 November 1988, as amended, has under section 27 of the said Scheme further amended the Schedule to Government Notice No R 120 of 27 January 1989, as amended, to the extent set out in the Schedule hereto, and

(b) the said amendment has been approved by me and shall come into operation on the date of publication hereof.

A. I. VAN NIEKERK,
Minister of Agriculture.

SCHEDULE

The Schedule to Government Notice No R 120 of 27 January 1989, as amended by Government Notices Nos R 851 of 28 April 1989, R 155 of 26 January 1990, R 3015 of 28 December 1990 and R 3178 of 27 December 1991, is hereby further amended by the substitution for clause 3 of the following clause:

"Amount of levy and special levy"

3 The amount of the levy and special levy referred to in clause 2 shall be 8,3c (VAT included) per 10 kg of potatoes and 1,7c (VAT included) per 10 kg of potatoes respectively."

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DEPARTMENT OF MANPOWER

No. R. 167  10 January 1992

LABOUR RELATIONS ACT, 1956
ELECTRICAL INDUSTRY, EAST LONDON RENEWAL OF MAIN AGREEMENT

I, Donald Charles Moody, Director Labour Relations, duly authorised thereto by the Minister of Manpower, hereby, in terms of section 48 (4) (a) (ii) of the Labour Relations Act, 1956, declare the provisions of
Kamanda, former Zambian president, has quit politics. His decision to resign as leader of the United National Independence Party is seen as a sign that he is no longer the powerful party. The party's policies now threaten to disrupt the Zimbabwean government.

The Alternative Dispute Resolution (ADR) Act is unlikely to succeed in its objective of providing methods of resolving disputes. The Act seeks to tie up practice, and the provisions are likely to be too rigid.

Labour law is inflexible, says Centre for Dispute Resolution director Simon Garvey. The Act is not flexible enough to accommodate changes in the economy, they say. They attribute the decline in real terms to the recession and the decline in demand for the previous year, while increased costs and fixed overheads have been disappointing for large chain store groups.

Retail sales declined last year, although sales in December were higher than expected. Dealers and business owners are optimistic about the future, despite the previous year's downturn.
Empowerment

No Room for Labour Monolith

No one has the right to impose their will on others. The right to determine one's own future is a fundamental human right. The struggle for empowerment is not a struggle for power, but a struggle for freedom. It is a struggle to break free from the shackles of oppression and to be able to make one's own choices. It is a struggle to be able to shape one's own destiny and to be able to live a life that is free from exploitation. It is a struggle for dignity and respect, for recognition of one's worth and value. It is a struggle for justice and equality, for a world that is fair and just. It is a struggle for a better tomorrow, for a world that is better for all.
ILO commission to probe SA labour laws

The International Labour Organization's Fact-Finding and Conciliation Commission visits SA from February 6 to 23 to investigate if the country's labour laws conform with international standards.

The commission could lay the basis for the country's return to the membership of the ILO which it quit in 1986.

The three-member ILO delegation comprises the High Commissioner for Barbados in London, Sir William Douglas, Mr Justice Kirby of New South Wales in Australia, and Mr Justice Lullah, the Chief Justice of Mauritius.

The delegation will also investigate complaints lodged by Cosatu with the ILO after the 1988 Labour Relations Act amendments which sparked mass protest and work stayaways in this country. This preceded an historic agreement between Cosatu, Nactu and the SA Employers Co-ordinating Committee on Labour Affairs which was translated into legislation in 1991.

At a Press briefing in Johannesburg yesterday, Cosatu officials said that through the commission, it hoped to secure certain public commitments from government, including a timeframe for their implementation.
When should a company tell the union that a change of ownership which could affect the employment relationship is in the offing? Furthermore, what exactly is meant by “full and proper consultation”? 

These are key questions for business following the Industrial Court ruling last week that Checkers must “properly consult” the SA Commercial, Catering and Allied Workers’ Union (Sacawu) before it can sell or shut down any of its stores.

It is established in labour law that, where jobs are at stake and there is knowledge of this, the company has a duty to “consult” the union in question. It is part of good-faith bargaining, though it might seem an infringement of a fundamental right in common law — that is, the right to dispose of one’s property as one sees fit.

One problem with last week’s finding by Mohammed Bulbulia, a permanent member of the Industrial Court, is that he gave no reasons with it; these were expected to be delivered later this week. The ruling was made in terms of section 17 of the Labour Relations Amendment Act, which provides for urgent interim relief, pending a fuller hearing under section 43, which can take up to four months.

In Checkers’ case, that could mean having to keep paying more than 30 workers who are sitting at home, since the (closed) Roodepoort store in question was due to be taken over by new owners at the end of January.

The union sought an urgent application last week to prevent, it said, 34 members being laid off at the end of this month. A union spokesman apparently explained that when Pepkor took control of Checkers, it had told the union that members’ working conditions would not change.

That, though, seems less relevant than the question of when, precisely, the union was informed that the company might close one (or more) of its stores.

A source close to Checkers — which is outraged by the court’s decision — says that the union was notified, late December, that the company was closing the Roodepoort store and had started relocating employees as part of its “restructuring”.

The union, over four meetings, refused to cooperate. While those consultations were underway, the company sold the store because the lease was up for renewal. The union was informed of this, says the source, adding that, from Checkers’ point of view, it complied with guidelines on retrenchment.

The implications of the ruling as it stands, says the source, are enormous — especially in the highly competitive retail trade. For example, the duty to consult could well affect business if competitors know that a store

Continue...
Negotiations save ILO visit

By FERIAL HÁFFAJEE

FRENZIED negotiations have saved the day for the International Labour Organisation’s fact-finding and conciliation commission which arrives in South Africa this weekend.

Fears that the Congress of South African Trade Unions and the government were on a collision course over the commission’s terms of reference were ironed out on Wednesday.

According to Cosatu lawyer Hailon Cheadle “The South African government has allowed the commission to deliberate on labour matters in general.”

The initial complaint laid against the government by Cosatu related to the controversial 1988 amendments to the Labour Relations Act.

Subsequent legislation remedied the Act and Cosatu then sought to extend the commission’s terms of reference “to include issues that South Africa needed to address in order to meet its international law obligations”.

It was assumed that the terms had been ironed out by then Manpower Minister Elh Louw when he visited the ILO last year, but this was disputed by Manpower director general Joel Fourie.

This week Fourie said the extended terms of reference was to have been the subject of negotiations between Louw and Cosatu, which never took place.

Cosatu says the government’s reference in extending the terms of reference related to its fears of “being put on trial” A serious diplomatic bungle was narrowly avoided by last-minute cabinet intervention.

But the last hurdle has not been crossed Cosatu will request that all the ILO hearings be conducted in public even though the commission’s rules demand confidentiality.

Cosatu general secretary Jay Naidoo said “The commission’s visit is part of the process to help develop a future dispensation and it must be jointly and publicly determined” However, Cheadle said the federation will abide by the riling of the commission.”
As farmers struggle to meet the demands of a global market, the European Commission is poised to unveil proposals aimed at addressing the growing concerns of both consumers and producers.

The Commission's plans, set to be presented next month by agriculture commissioner Phil Hogan, are expected to focus on two key areas: the regulation of genetically modified organisms (GMOs) and the introduction of a comprehensive strategy to combat the decline in bee populations.

GMO regulation has been a contentious issue in Europe for many years, with many countries banning or restricting their cultivation. The new proposals are likely to include measures to ensure that GMOs are only used in contexts where there is a clear benefit to the producer, and that proper labeling is in place to inform consumers of their presence.

The bee strategy, meanwhile, is expected to outline a range of measures to support beekeepers and protect pollinators. This could include financial support for beekeepers, the creation of new habitats for bees, and the introduction of restrictions on the use of certain pesticides.

In a statement, Hogan said: "These proposals are an important step in addressing the challenges faced by farmers and consumers alike. They will help ensure that we can continue to produce high-quality food in a sustainable way, while also protecting the health of our environment."
Cosatu to meet Minister

COSATU will meet new Manpower Minister Piet Marais for the first time today to get a report-back on the progress government has made on undertakings Marais' predecessor, Etz Louw, gave to Cosatu.

Cosatu's general secretary Jay Naidoo says issues that will be discussed include:

- Progress made on Louw's commitment to include farmworkers under the Basic Conditions of Employment Act and the Unemployment Insurance Fund.
- Extending the Labour Relations Act and Wage Act to cover farmworkers.
- Extending labour legislation to cover domestic workers.
- The restructuring of the National Manpower Commission.
- The revamping of the Industrial Court.

Three more years.
Domestic workers now on agenda

Govt nod for labour laws to cover farms

TWO key labour laws could be extended to cover SA's 1.3-million farm workers by the end of April.

This was one of several agreements reached yesterday at the first meeting between new Manpower Minster Piet Marais and the country's two largest labour federations, Cosatu and Nactu.

"We reached a number of concrete arrangements about addressing issues outstanding since the departure of Eus Louw last November," Cosatu general secretary Jay Naidoo said. "It was a very constructive meeting. It seems it will be possible to achieve a number of new agreements with this Minister relatively quickly."

According to Cosatu, Marais agreed that amendments to extend the Basic Conditions of Employment and Unemployment Insurance Acts to farm workers must be urgently processed through Parliament. He undertook that this process would be completed before the end of April.

It was agreed that discussions between the SA Agricultural Union, Cosatu/Nactu and the Manpower Department should be held as soon as possible to iron out problems with the extension of the legislation.

Manpower director-general Joel Fourie, who was present at the meeting, stressed that consultation with the SAU was an important part of the process envisaged by the Minister.

Organised agriculture indicated last week it opposed extending the Basic Conditions of Employment Act and other labour laws to agriculture. SAU chairman Boet Fourie told a meeting of the Free State Agricultural Union SAU wanted separate "agriculture-friendly" labour laws to apply to the industry.

A draft amendment Bill published last year provided only for limited special consideration for agriculture, mostly related to the seasonal nature of the industry - for example, longer working hours during peak periods.

Manpower's Fourie said if consensus could not be reached at the proposed consultations, government would have to take a final decision.

The union representatives also briefed Marais on the proposed economic negotiation forum being discussed between the unions and organised business. "He listened carefully and we expect he will convey our views to the Cabinet," said Naidoo.

The extension of labour law to domestic workers was also discussed. Cosatu said Marais agreed to respond by mid-April on progress in processing legislation, including how practical problems in extending the Unemployment Insurance and Workers' Compensation Acts can be solved.

Marais also agreed to convene a meet-

To Page 2

Labour laws

strategy A number of steps were set in motion to ensure this process gets under way.

It also discussed "serious administration problems" in the Industrial Court and it was agreed to set up a joint working group to investigate possible solutions.

Fourie said the main problem was delays of up to nine months in the hearing of cases in those regions that were particularly overloaded with cases.

He said there had been a noticeable improvement in relations between labour and the ministry. "There is more of an understanding of the department's problems on their part, and we have a better understanding of what the unions want."

From Page 1
Basic rights for farmworkers soon

By Shareen Singh 4/3/92

Farmworkers would enjoy basic labour rights before the end of April, Manpower Minister Piet Marais told Cosatu and Nactu at a meeting yesterday.

The minister agreed with the union federations that amendments to extend the Basic Conditions of Employment Act and Unemployment Insurance Act to farmworkers had to be urgently processed through Parliament.

He gave an undertaking that this process would be completed before the end of April.

Mr Marais also agreed to convene an urgent meeting of all the major players in the labour arena to discuss the question of representation and restructuring of the National Manpower Commission — issues which led to Cosatu pulling out of the NMC last year.

The federations briefed the minister on the proposed economic forum of employers and trade unions and discussed a number of problems confronting them regarding the implementation of the Laboria Minute.

Mr Marais promised the unions he would:

- Set up a meeting between the SA Agricultural Union, Cosatu, Nactu and the Department of Manpower as soon as possible to iron out further problems regarding the extension of labour legislation to farmworkers.
- Respond to Cosatu by mid-April on progress in the processing of legislation for domestic workers, including recommendations on how practical problems in extending the Unemployment Insurance and Workmen’s Compensation Acts to domestic workers could be overcome.
No need to delay farm labour law

CAPE TOWN — Government had no reason to delay giving farm workers basic rights as consensus had already been reached between key players, National Manpower Commission member Dawne Bosch said yesterday.

He was reacting to Manpower Minister Piet Marais' statement that the extension of the Basic Conditions of Employment Act to the country's 1.3-million farm workers still depended on consensus between parties represented on the commission.

Bosch, a researcher with the Stellenbosch-based Centre for Rural Legal Studies, also warned that a draft Bill on farm workers' rights threatened to undermine the commission’s future negotiations on legislation.

While government was committed to extending the Labour Relations Act to farm workers — and with the requirement of four labour practices — this had been delayed until at least 1993.

"During our investigation on legislation covering farm workers, consensus was reached on most recommendations dealing with the application of the Basic Conditions of Employment Act to farm workers. "Parties such as the SA Agricultural Union (SAAU), Cosatu and Nactu were party to this consensus," said Bosch.

GERALD REILLY reports SAAU deputy director-general Kobus Klapwijk said yesterday the union was pressing for a single comprehensive piece of labour legislation for the agricultural industry.

The SAAU believed that extending the Basic Conditions of Employment Act to farm workers was neither feasible nor acceptable to most farmers. Bosch said the SAAU was going back on consensus reached at the National Manpower Commission.

He said central commission recommendations had been watered down or left out of the Bill now before Parliament.

The Bill removed existing rights from some categories of workers and left out commission clauses aimed at protecting farm workers against dismissals expected to accompany agricultural restructuring.

"If negotiated recommendations are disregarded in this way, parties will lose their incentive to negotiate and fight for their interests in other spheres, — which may cripple an already weak economy," Bosch said. — Sapa
Farm workers stand to gain after talks

FARM workers could enjoy basic industrial rights by the end of April following discussions on Tuesday between the Minister of Manpower, Mr Piet Marais, and the country's two largest labour federations.

According to a statement released by Congress of South African Trade Unions spokesman Mr Neil Coleman, Marais had agreed to begin restructuring the National Manpower Commission without further delay - an important breakthrough.

Meeting

It was the first meeting between Cosatu, the National Council of Trade Unions and the Minister, at which Marais had been briefed on the labour federations' positions on the proposed economic forum, as well as union concerns.

Marais had made a number of undertakings, Coleman said.

"Cosatu trusts that these undertakings will be met as speedily as possible in order to prevent the types of problems and delays we have been experiencing," he said.

The Department of Manpower was not available to comment on Cosatu's statement that Marais had agreed to extend the Basic Conditions of Employment and Unemployment Insurance Acts to farmworkers before the end of April.

Problems

It was also agreed that the South African Agricultural Union, Cosatu, Nactu and the Department of Manpower should meet as soon as possible to iron out further problems with extending legislation to farmworkers, said Coleman.

Majars also agreed to give Cosatu a progress report by mid-April on extending labour laws to domestic workers.
Pact on farm workers denied

CAPE TOWN — Manpower director-general Joel Fourie yesterday denied the National Manpower Commission had reached consensus on extending labour rights to farm workers.

If consensus had been reached between employers and employees it could not usurp Parliament, he said.

Earlier, commission member Dawie Bosch had said government did not have to delay giving farm workers basic legal rights as these had been agreed on.

His remarks followed a statement by Manpower Minister Piet Marais that the Basic Conditions of Employment Act could be extended to farm workers before the end of April, subject to the commission's consensus.

Marais said this week amendments to cover farm workers would be legislated before the end of April.

However, after meeting Cosatu and Nactu on Tuesday, he said the process was subject to consensus being reached with the SA Agricultural Union, representing farmers.

According to Cosatu, the SAAU had been party to negotiations on the commission, which resulted in the recommendation that existing labour laws be extended to farm workers.

The SAAU has since said it supports a separate body of legislation for agriculture — Sapa.
Cosatu and Marais go a-courting

Organised labour and the new manpower minister are trying hard to establish a rapport, reports FERIAL HAFFAJEE

ORGANISED labour has squeezed from the government a pledge to enact key legislation for farmworkers this parliamentary session — but the farmers' lobby remains a hurdle to be crossed.

At their first meeting with new Manpower Minister Piet Marais — a remarkably conciliatory affair — the Congress of South African Trade Unions and the National Council of Trade Unions extracted from the minister an undertaking to extend the Basic Conditions of Employment Act (BCEA) and Unemployment Insurance Act to farmworkers by the end of April.

Marais' commitment may have saved the day last week it appeared that the South African Agricultural Union (SAAU) had managed to bully him into delaying the legislation, and that the government and labour were on a collision course.

Cosatu threatened "serious action" if the government gave in to SAAU pressure by delaying the legislation, reminding them that it had pulled out of the National Manpower Commission over this issue.

In the same meeting, Marais also agreed to an urgent meeting of all parties to discuss the restructuring of the NMC.

But the path of the farmworkers' legislation will be far from smooth. Although the SAAU's plans for a parallel agricultural labour statute appear to have been thwarted, farmers are a key government constituency, and the Manpower Department will have to do a delicate balancing act to appease both sides.

SAAU representative Kobus Klynhans said Marais had contacted him and assured him that he had not agreed unequivocally to pass the legislation by the end of April.

"We must convince the minister that our proposal is a viable one. If he isn't convinced then there will have to be substantial amendments to the BCEA currently before parliament," he said.

Perhaps predicting the SAAU's almost certain resistance, Manpower director-general Joel Fourie stressed that the parties had agreed that negotiations involving the government, the SAAU and Cosatu were essential to the legislative process.

He added that because the parties had a "common goal", he was optimistic that solutions would come easily. If the SAAU's proposed statute contained basic labour rights for farmworkers, he could see no reason for it not being acceptable.

But Cosatu's campaign co-ordinator Lisa Sefiel, pointing to the federation's policy of a "single legislative dispensation", said that Cosatu would oppose the SAAU's demands for a special farm labour statute.

Sefiel doubted whether even a re-framed, separate statute could convince the SAAU's conservative constituency. Accusing the SAAU of using the new demand as a delaying tactic, she pointed out that it had not given details of its legislative proposals.

Conscious of its weakness in the farming sector and anxious for some statutory dispensation, labour is unlikely to push for changes to the BCEA Bill before parliament — despite misgivings about some of its provisions.

Listing objections to the Bill, Dawie Bosch, a member of the NMC's technical committee on farmworkers, said "Central recommendations of the NMC have been left out or watered down in the BCEA.

This potentially undermines future negotiations on legislation. Parties will lose their incentive to negotiate and fight for their interests in other spheres which may cripple an already weak economy," he said.

Key problems, he said, included:

1. The Bill's failure to protect farmworkers from arbitrary dismissals.
2. The Bill's wide definition of "farming activities" would remove the existing BCEA rights of many workers currently regarded as industrial workers. They include workers in processing plants and shops based on farms.
3. Farmworkers would be entitled to only one month's notice, whereas the NMC recommended "reasonable notice" to take account of the special circumstances on farms.
4. Inadequate protection against victimisation for trade union activities.
5. The Bill's failure to make summary dismissals illegal.

Bosch said a Waterwijk Act was even more essential now, as 100,000 farmworkers were threatened with dismissal because of the drought. Impending labour legislation could also spark pro-emprise firings.

Cosatu's Sefiel said they had raised these problems with the minister, but added "We are eager for this legislation to be passed as soon as possible. There are a number of weaknesses, but it is a step forward.

Another important development in this week's paint meeting was Marais' undertaking to give Cosatu a progress report on legislation for farmworkers by mid-April.

Playful discussions on a tripartite national training strategy, administrative problems with the industrial courts and the planned economic negotiation forum were also held, according to Cosatu.
SA is on way back to ILO

By ADRIAN HERSCH

SOUTH Africa will be re-admitted to the International Labour Organisation (ILO) when an interim government is in place.

A senior labour lawyer says that contrary to previous expectations, regaining membership will not depend on whether SA's labour laws meet international standards.

"But the recommendations of an ILO commission which visited SA will have an important influence on labour legislation here," he says.

"It will set the parameters for debate about our labour law," he says.

The Government announced this week that the Basic Conditions of Employment Act and Unemployment Insurance Act would be extended to farm workers before the end of April.

But this will fall short of ILO recommendations, says the labour lawyer.
Farm labour row

MANPOWER director-general Joel Fourie seemed to have deliberately undermined National Manpower Commission negotiations on rights for farm workers, Cosatu said at the weekend.

His denial that the commission had reached consensus was extremely strange as the agreement had been gazetted in 1999, Cosatu spokesman Neil Coleman said.
Union liability not law

GOVERNMENT was not considering introducing legislation to make trade unions liable for their members' actions, Manpower Minister Piet Marais said yesterday in reply to a question tabled in Parliament.

It was also not envisaged that amendments would be made to industrial court rules regarding costs of actions before it.

REPUBLIC OF SOUTH AFRICA

del Sapa AP-DJ
all adjustments to existing service benefits are subject to inclusion in the improvement plan for service conditions which is, on the basis of the availability of funds, negotiated annually with recognized personnel and trade associations.

(2) No.
(3) No.
(4) Fails away

Reply substituting reply to Question No 102 on 12 March 1992, put by Mr L Fuchs (col 377)

Trade unions: legislation

102 Mr L FUCHS asked the Minister of Manpower (b) Whether the Industrial Court is envisaged to introduce legislation to make trade unions vicariously liable for the acts of their members, if not, why, not, if so, when?
(2) Whether it is envisaged that the rules of the Industrial Court will be amended so as to allow costs orders to be given in certain circumstances, if not, why not, if so, when? B312E

The MINISTER OF MANPOWER

(1) No
(2) The common law situation applies as supplemented by section 79 of the Labour Relations Act, Act 28 of 1956

Own Affairs

Theft from departmental hospitals

32 Mr M J ELLIS asked the Minister of Health Services and Welfare (b) Whether any instances of theft of supplies and equipment other than medicines from hospitals under the control of her Department occurred during the course of 1991, if so, (a) what supplies and equipment form the bulk of such thefts, (b) at which hospitals in each province did these thefts occur and (c) what is the value of the supplies and equipment stolen?

(2) Yes

(a) Electrical equipment

(b) Transvaal:
- Evander Hospital
- Hendrik van der Byl Hospital
- J G Strijdom Hospital
- Kompopo Park Hospital
- Oudekars Montessor Hospital
- Paardekraal Hospital
- Phalaborwa Hospital
- South Rand Hospital
- Willem Cruywagen Hospital
- Cape Provincial Administration
- Port Elizabeth Provincial Hospital
- Natal
- Greys Hospital
- Orange Free State
- None

(c) R92 334

(2) Yes, the South African Police are notified of all thefts. The success rate in terms of transgressors located and stolen property repossessed is, however, low.

(3) No

Patients turned away from hospitals

51 Mr M J ELLIS asked the Minister of Health Services and Welfare Whether, during the latest six-month period for which information is available, any hospitals under her control turned patients away because they were members of a race group other than White, if so, (a) which hospitals and (b) for what reasons? B402E

The MINISTER OF HEALTH SERVICES AND WELFARE

(a) No
(b) Not applicable

Burrows, Mr R M—
- Own Affairs
  - Education and Culture, 185, 436

Berger, Mr A—
- Own Affairs
  - Education and Culture, 291

Mansell, Mr R F—
- General Affairs
  - Law and Order, 272

Langley, Mr T—
- General Affairs

National Intelligence Service, 1

Leon, Mr A J—
- General Affairs
  - Law and Order, 129

Le Roux, Mr F J—
- General Affairs
  - Foreign Affairs, 123

Momberg, Mr J H—
- General Affairs
  - Mineral and Energy Affairs, 7

Paulus, Mr P J—
- General Affairs
  - National Health, 267

Pienaar, Mr C H—
- Own Affairs
  - Agricultural Development, 33

Rajab, Mr M—
- General Affairs
  - Correctional Services, 211
  - Law and Order, 323

Rajbanis, Mr A—
- Own Affairs
  - Chairman of the Ministers' Council, 328
  - Houang, 45, 220

Van der Merwe, Mr H D K—
- General Affairs
  - Constitutional Development, 399

Van Eck, Mr J—
- General Affairs
  - Law and Order, 405
Marais in labour talks

CAPE TOWN — Stalled talks on restructuring the National Manpower Commission and labour rights for farm workers will be addressed by Manpower Minister Piet Marais over the next 10 days. The restructuring of the NMC will be the focus of discussions when Seccola chairman Bekkie Botha and a National Employers' Association delegation meet Marais on Thursday.

A spokesman for Marais confirmed yesterday he would meet lawyers on Saturday to discuss hitches in extending industrial rights to farm workers.

The issue of farm workers' rights would also be taken up when Marais met representatives from the SA Agricultural Union and Cosatu on Friday.

Cosatu's meeting with Marais follows a meeting on March 3 when he indicated that basic labour rights could be extended to farm workers by the end of April. — Sapa
MANPOWER Minister Piet Marais and members of Saccola met yesterday for the first time to discuss restructuring the National Manpower Commission, spokesman Ted Townsend said.
Marais mediates

This week Manpower Minister
Pet Marais will hold a number of
meetings with key players in
attempts to iron out stonewalled
negotiations around the National
Manpower Commission and farm-
workers' legislation.

On Thursday this week he met
Bokaka Botha of the South African
Co-ordinating Committee on
Labour Affairs (Sacola) and the
National Employers' Association to
discuss the restructuring of the
National Manpower Commit-
Today the SAAU and Cosatu will
put forward their positions to
Marais on extending legal rights to
farmworkers and tomorrow, he
meets lawyers to discuss the hitches
this piece of legislation faces.
The news comes as efforts to involve employees and workers key in the government's plans to engage and consult with the NMC members. The government has already communicated its intention to consult with the NMC members, including the NMC's executive committee, on the proposed constitutional amendment which would affect the role of the NMC. The government's decision has been welcomed by the NMC members, who see it as an opportunity to engage in a meaningful dialogue with the government. The NMC's executive committee has expressed its willingness to work with the government on the proposed constitutional amendment, and it has also called for the government to take steps to ensure the NMC's role in decision-making processes is properly recognized.

Labour

State may suspend funding for NMC

Labour
Bid for unity on labour legislation

SHARON SOROUR, Labour Reporter

MANPOWER Minister Mr Piet Marais meets giant union federation Cosatu and the SA Agricultural Union today in a bid to reach consensus on the extension of labour legislation to farmworkers.

Mr Marais is to chair the meeting at the Department of Manpower offices in Pretoria, a spokesman for the Ministry of Manpower confirmed.

According to Cosatu's campaigns co-ordinator, Mr Lisa Seifert, Mr Marais would later meet Cosatu and the National Council of Trade Unions (Nactu) separately.

At a meeting with Cosatu general-secretary Mr Jay Naidoo earlier this year, Mr Marais said he saw no reason for two key labour laws — the Basic Conditions of Employment Act and the Unemployment Insurance Act — not to be extended to agriculture before the end of April.

But while key players party to the National Manpower Commission recommendations agreed on certain proposals "in principle", the SA Agricultural Union has since opposed these proposals, according to Mr Dawie Bosch of the Centre for Rural Legal Studies in Stellenbosch.

Mr Bosch said: "I can't see how the government will be able to justify not extending these Acts this year after all the undertakings of the past."

"It may be that the union is using its objections as a way of pressuring the government to water down certain proposals contained in the Labour Relations Act, it may be a strategic move."

Mr Bosch said the union was proposing that a separate Labour Act be drawn up for agriculture.
Talks to resume on farm labour

CAPE TOWN — Manpower Minister Piet Marais, the SA Agricultural Union and Cosatu will meet again tomorrow in a bid to resolve the deadlock over labour rights for farm workers. The parties held a "long and very difficult, though fruitful" meeting in Pretoria on Friday, Manpower Ministry spokesman Ted Townsend said yesterday.

Cosatu has demanded that the Basic Conditions of Employment Act and Labour Relations Act be extended to the country's 1.3 million farmworkers, while the SAAU has argued for a separate statute for agriculture.

Progress

Mr Townsend said progress had been made at Friday's talks, but did not elaborate. The meeting would go ahead on Thursday.

Approached for comment, SAAU co-director Kobus Kleynhans said tomorrow's meeting was tentative.

"The parties have decided that only the Minister's press secretary will liaise with the press," he added.

Cosatu campaigns coordinator Luis Seifel said Cosatu would try to issue a more detailed statement later — Sapa
chairman Frans Barker this week reacted strongly to the rumours that the government was planning to withdraw funding from the secretariat.

"The secretariat is the lifeblood of the NMC and without it the commission will not be able to develop labour law," he said.

Barker said he was confident that both the Congress of South African Trade Unions and the National Council of Trade Unions would rejoin the NMC subject to that body's being modified.
Your business: don’t fall foul of labour law

GENERALLY, the maximum number of working hours in a week, excluding overtime, is 46 and, generally, employees are not permitted to work more than 12 hours a day. Employees are entitled to a one-hour break after five hours of continuous work.

Overtime, generally, is payable at a minimum rate of one-and-a-third of the normal rate and is limited to three hours a day and 10 hours a week.

Double time, generally, has to be paid for Sunday work.

Generally, professional staff are entitled to a minimum of three weeks' leave a year and other staff to two weeks.

Employees not working more than five days a week are entitled to 30 days' paid sick leave in a three-year period.

Any other employees are entitled to not less than 36 days' paid sick leave over the same period.

The minimum period of notice of termination given by an employer is one day during the first four weeks of employment. Thereafter, weekly-paid employees have to be given one week's notice and monthly paid employees two weeks' notice.

Employers may not discriminate against members of the trade unions.

These points are taken from the Basic Conditions of Employment Act and, if necessary, are brief. If in any doubt, consult the Act or obtain professional advice.

The terms of the Act, however, are not applicable to employees whose conditions of employment are regulated by industrial council agreements under the Labour Relations Act, or wage determinations under the Wage Act, 1967, or in terms of the Mines and Works Act.

Next week premises and location.
Cosatu backs growth strategy

Plans to ease labour law for small business

THE National Manpower Commission has recommended the easing of labour laws and regulations applicable to small businesses as part of a strategy to encourage economic growth.

The call for a special dispensation for small business has the support of Cosatu, whose commission representatives have agreed the report.

In the report, a summary of which was published in the Government Gazette last week, the commission said a balance between employer and employee interests was "of the utmost importance".

The aim of the investigation, commissioned by the Manpower Ministry in April 1991, was to "stimulate small business development and the creation of employment without detracting from the basic rights of employees".

The commission was therefore opposed to granting small businesses blanket exemptions from labour legislation — including wage-regulating instruments. But its recommendations would streamline the process by which they were exempted if they could provide adequate reason for this, and also reduce to a minimum the red tape involved in complying with labour law.

Acting commission chairman Frans Barker said yesterday that, while the recommendations were not dramatically far-reaching, he hoped they would encourage a process which would bring more concessions in the future.

The initial draft was more drastic, but it had to be adjusted in an effort to seek consensus, he said. Not only the unions, but also big business which feared unfair competition, were opposed to comprehensive exemptions for small businesses.

The recommendations, if accepted, would apply to "macro businesses" defined as units employing no more than five people with an annual turnover of up to R250,000 measured in 1990 terms.

They should be independent, and managed and controlled by the owner.

The report proposed that each industrial council agreement include a provision stating that its purpose was not to restrict entrepreneurial initiative. Where it could be shown that this was occurring, the council could grant exemptions from specific provisions of its agreement. Unless the councils complied with this, or agreed to call for and consider representations from small businesses covered by them, the Minister should refuse to promulgate wage-regulating agreements.

As regards the Basic Conditions of Employment Act, the commission proposed the retention of the existing ad hoc system for granting exemptions to the Act's minimum standards, except that a set of guidelines be drafted. These guidelines should take into account the nature of the specific business, its size, how long it had been in operation and whether an agreement existed between the employer and employee.

The commission proposed that micro businesses and new small businesses (employing, say, up to 20 people) should be automatically exempted from particular provisions of the Act, especially administrative requirements.

This should apply not only to industrial council requirements, but also to particular laws. For example, there could be rationalisation of the repetitive information which had to be provided in terms of

Small business - the Unemployment Insurance Act and the Workers' Compensation Act

The commission recommended that, to lighten their administrative burdens, micro businesses be permitted to pay their Unemployment Insurance, Workmen's Compensation and Industrial Council-imposed social security contributions quarterly or even annually.

The report suggested the appointment of a "facilitator" to monitor the exemption process and recommend improvements.

The report also proposed a simplified dispute-settling procedure in terms of the Labour Relations Act.

Greater emphasis should be placed on alternative dispute resolution through mediation and arbitration — subsidized by the state — rather than the normal procedures involving industrial councils, conciliation boards and the Industrial Court.

It also proposed that micro businesses be exempted from aspects of the Machinery and Occupational Safety Act, including regulations relating to sanitary and washing facilities, dining rooms and provision of seats.

Further investigation was required into regulations on lighting, thermal requirements, noise, windows and fire precautions.

The Manpower Department has called for comment and representations on the report within 90 days.
Manpower commission 'could become extinct'

CAPE TOWN — The National Manpower Commission, dogged by delays in extending labour laws to all workers, could become extinct if it is not restructured, acting chairman Frans Barker said in the commission's 1991 annual report.

It had been impossible to achieve full consensus on principles for restructuring the commission by January 1992. The advisory body had recommended that it be appointed in a restructured form by April.

Barker said employers and labour representatives had shown a greater willingness to find some common ground on labour policy in 1991.

However, the loss of man-days to strikes had threatened the commission. Cesa'a "symbolic" withdrawal from the commission and deteriorating economic circumstances were less encouraging.

Our political staff reports that the commission recommended a one-season trial period of daylight saving, beginning on the first Sunday of October and ending on the last Sunday of March, with clocks throughout SA advanced one hour for the period.

The Unemployment Insurance Fund, in its annual report tabled in Parliament yesterday, said an actuarial investigation had shown its reserves were sufficient to allow the inclusion of farmworkers. — Sapa
Workers to march

FARM and factory workers would march to Parliament tomorrow to demand the immediate extension of the Labour Relations and Wage Acts to agriculture.

This was said by Mr. Mike Madlala, assistant general secretary of the Food and Allied Workers Union yesterday.

The march, organised by Fawu and the Congress of South African Trade Unions, was believed to be the first mass action demanding full labour rights for the country’s 1.4 million farm workers, he said.

Perturbed

Speaking at a Press conference, Madlala said Fawu and Cosatu were particularly perturbed that the State President, Mr. PW de Klerk, had not responded to growing demands to alleviate the plight of farm workers.

In a statement, Fawu said “The new South Africa will remain a distant dream while more than a million workers remain in bondage.”
March planned for farm labour rights

CAPE TOWN — Cosatu's food union, charged since 1985 with organising SA's 1.4-million farmworkers, sees little hope of achieving this goal unless it has legal clout.

The Food and Allied Workers Union (Fawu) represented some 20,000 workers on farms — a "drop in the ocean," according to Fawu assistant general secretary Mike Madlala.

Fawu and Cosatu would lead a march to Parliament tomorrow to demand basic labour rights be extended to the agricultural sector, he said.

At a news conference in Cape Town, Madlala blamed the absence of legislative protection for workers and unions for Fawu's failure to make inroads into the sector.

He said farmworkers had no access to unfair labour practice jurisdiction or the Industrial Court, as opposed to workers who fell under the Labour Relations Act (LRA).

Fawu and Cosatu may have approached negotiations on legislation "the wrong way round," said Madlala. Instead of pressing for the extension of the Basic Conditions of Employment Act to farmworkers, it should have demanded that the LRA be extended, giving workers and organisers organisational protection.

In its demands to government tomorrow, Fawu and Cosatu would demand the immediate extension of this Act to farmworkers — Sapa.
COSATU’S food union, charged since 1985 with organising the country’s 1.4 million farmworkers, sees little hope of achieving this goal unless it has the legal clout to do so. The Food and Allied Workers Union represented some 25,000 workers on farms, a “drop in the ocean”, according to Fawu assistant general secretary Mr Mike Madlala.

Breaking with its historically low-key public profile on organising workers on farms, Fawu and Cosatu will lead a march to Parliament today that gives a stark indication of the changing political climate.

Speaking at a press conference in Cape Town, he blamed the absence of legislative protection for workers and unions for Fawu’s failure to make any significant inroads into the sector.

The union needed organisational power before it could enforce concessions for workers on farms but was hamstrung by not having the right to build that power.

It has adopted a twofold approach in trying to penetrate the farming sector - the traditional trade union tool of organisation, and taking part in the official advisory body on labour legislation, the National Manpower Commission.

Despite this, Fawu’s organised presence on farms remains limited, said Madlala.

The union was mandated to organise farm workers at Cosatu’s launch in 1985, and repeated resolutions to step up efforts in this direction have been passed since.

In April last year, resolved to establish a national union for farm workers, but instructed its affiliates with members on farms to continue their activities.

“...there is no legislative or organisational protection for farm workers, if we organise our farm workers in opposition to mass violence, and the political violence that is taking place, there is no organisation to represent farmers on farms,” said Madlala.

Regarding negotiations in the NMC, Fawu last year obtained Government undertakings that the Basic Conditions of Employment and Unemployment Insurance Acts would be tabled before the end of the 1991 Parliamentary sitting.

“...the only happened 12 days before the session ended and there was no time for Parliament to debate the Bills. This year we’ve seen them being shifted down the order papers,” Madlala said.

The South African Agricultural Union lobby, the Minister of Manpower and other representatives of the Agriculture Act for agriculture.

Cosatu and the SAAU would, nonetheless, continue to discuss their respective demands, said Madlala.

“This should not be seen as delaying the promulgation of the Bills into law,” Madlala said.

At the same time, the Department of Manpower should not delay enacting the Labour Relations and Wage Acts so that they apply to agriculture.

The union had also been facing with having to deal with three different Ministers of Manpower in a three-month period including and leading up to the appointment of the present Minister, Mr Piet Marx.

Fawu’s involvement in the NMC, its focus on the 1990 Labora Minute, which committed the Government to extending labour rights to all workers and undertakings that the NMC would be restructured into a representative, negotiating forum between employers and employees on labour policy.

Madlala said workers on farms had no access to unfair labour practice investigations or the Industrial Court, protection enjoyed by workers who fell under the Labour Relations Act.

Trespass laws prevented union organisers from going on to farms.” From this stemmed Fawu and Cosatu’s demands that the Trespass Act be scrapped immediately and organizers be allowed free access to farms.

Instead of pressing for the extension of the Basic Conditions of Employment Act to farmworkers, it should have demanded that the LRA be extended, giving workers and organisers organisational protection in its demands to the Government today, Fawu and Cosatu will demand the immediate extension of this Act to farmworkers for “without this, all legislation relating to farmworkers cannot be enforced”.

“If a farmworker is dismissed, the family also goes and they lose their accommodation. This is different to industrial workers who don’t rely on their employers for access to accommodation.”

Fawu estimated that up to 5 million people were dependent on farmworkers as breadwinners.

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“...We know that quite a number of farmworkers have been dismissed in anticipation of labour laws being extended to the farming sector.”

Optimism about progress towards full labour rights for farmworkers has been tempered against the background of the experience in Zimbabwe - where labour rights for farmworkers sparked dismissals.”

“We know that quite a number of farmworkers have been dismissed in anticipation of labour laws being extended to the farming sector.”
In search of some common ground on the farms

By FERIAL HAAFJEE

A SERIES of high-level meetings between government, worker and farmer representatives has failed to clear the murky future of farmworkers legislation, which remains logjammed in the parliamentary process.

But there is a groundswell of resistance among farmworkers who may not have the patience to weather yet another series of negotiations.

Today farmworkers, political and church organisations will march on parliament. In the past weeks, farmworkers have held placard protests.

The third in the series of meetings to decide the future of the legislation took place last Friday. It was to have been the last meeting but it too ended in an impasse.

According to government sources, the only progress made was that the Congress of South African Trade Unions, the National Council of Trade Unions and the South African Agricultural Union (SAAU) are “at least listening to each other.”

Cosatu’s end of April deadline to the Minister to demand decisive action on the legislation will not be met — instead another meeting will be held on May 7.

This week, the federation was adamant that this will be the last meeting.

SAAU representative Kobus Kleyhans said “we will not easily reach consensus but I am positive that we will reach common ground.”

But all parties know the fragility of negotiations and have adopted a wait and see approach to the May meeting. Cosatu is eager to get legislation passed for one of its most embattled sectors while the organised farmers’ lobby (SAAU) has realised that it cannot wish away trade unionism on the farms and is keen to find “common ground.”

In the path of the legislation is SAAU’s insistence on separate labour legislation for farmworkers. To what extent it is still wedded to this scheme is unclear.

Kleyhans was non-committal this week and would only say “Cosatu and the SAAU are looking for labour legislation that will work.”

The Farm and Allied Workers’ Union (Fawu) is spearheading the campaign around the legislation. It has only 25,000 members in the sector, a sector employing 1.6-million workers.

But organising work is hampered by the lack of legislation. Ben Sinzane, a Fawu farm organiser, said they are denied access to the farms in terms of the Trespass Act. Instead, they have to meet workers at night or at the weekend outside the farms.

Today, Fawu and Cosatu will march on parliament to demand that the Basic Conditions of Employment Act and the Unemployment Insurance Act be passed on to farmworkers in the current parliamentary session.

They will also highlight the right to freedom of association and collective bargaining for farmworkers as well as campaign for the scrapping of the Trespass and Illegal Squatting Acts.
Problem solving in the workplace

SINCE the liberalization of SA’s labour laws, this field has rapidly developed into a complex area of legal practice supported by extensive legislation. The Labour Relations Act, which introduced the concept of co-determination for both parties, and the unfair labour practice is one of the most creative areas of legal practice because the relationship between management and labour is never static but a constant process requiring a variety of legal skills.

Most experienced labour lawyers, whether they represent employers or employees, stress that they formed close co-operative relationships with their clients. It is also an area of law in which alternative dispute resolution methods such as arbitration and mediation have been used with great success.

Johan Lubbe of Hofmeyr van der Merwe says the rapid development of labour law has resulted in both management and labour regularly seeking advice on what their rights are before taking a business decision or accepting a decision or proposal.

“Larger corporations are increasingly using the services of attorneys as part of the management team to either assist or conduct their annual wage negotiations,” Lubbe says.

“Wage negotiations involve quick decisions on requests for information, the utilisation of specific bargaining tactics or an entire bargaining strategy.”

“On-the-spot legal advice is therefore required from time to time,” Lubbe says.

Mulligan, who acts for corporate clients, says there are two approaches to labour law as an attorney. He or she is to attempt to solve a particular problem when it arises, if one solution does not work, there is an attempt at something else.

Mulligan prefers the second approach, which is to be an advisor to the client becoming involved in an on-going basis.

“I encourage this with most of my clients, otherwise you get involved in a quick-fix situation which does not foster a long-term relationship between union and management.”

A firm which has had an important role to play in the development of labour law in SA is Chedie Thompson and Hayeson.

The partners have been involved in negotiating and drafting key legislation such as amendments to the Labour Relations Act, the Basic Conditions of Employment Act, the Wage Act, Unemployment Insurance Act, Workmen’s Compensation Act and the Machinery and Occupational Safety Act.

In addition, its partners were responsible for advice concerning the drafting of the labour legislation in Nambia, as well as introducing or redrafting labour legislation in all the home territories.

Recently Chedie Thompson and Hayeson represented a number of organisations at the International Labour Organisation’s Fact-Finding and Conciliation Commission, which came to this country to investigate Cosatu’s complaints about the 1988 Labour Relations Amendment Act.

The commission was extended to an investigation of how SA’s labour legislation compared with international standards, particularly with regard to freedom of association.

“The report,” says labour attorney Paul Benjamin, “will be out in the next few months and will have a marked impact on labour law developments in this country.”

Joint

Mulligan believes labour legislation in future will result from the joint input of labour, capital and government.

Unions, he says, have gone out of their way to demonstrate their muscle and that they are a force to be reckoned with. This will not change in the future.

“Labour as much as the present government was unable to quash the unions or remove their power, a future government will not be able to do so either.”

“I foresee we are going to end up with a vastly changed Act and, I believe, in the not too distant future.” That Act, when it comes, will be the product of a consensus between government, labour and capital under the aegis of government.”
Protect domesticst, farm workers call

THE Department of Manpower has recommended that the Basic Conditions of Employment and Unemployment Insurance Acts be extended to the agricultural sector.

National Manpower Commission members, except the SA Agricultural Union, recommended that the Wage Act be extended to farms.

The NMC also recommended that domestic workers be protected by the Basic Conditions of Employment, Labour Relations, Unemployment Insurance and Workmen's Compensation Acts.

Its annual report covering its activities ranging from labour relations to religious objection to military service was tabled in Parliament this week.

The 154-page document reported a rise in trade union membership, advances in extending labour laws to unprotected sectors, fewer workplace accidents and increased unemployment.

An amended Labour Relations Act - agreed between Sacola, Cosatu and Necta - was passed by Parliament in 1991, but no progress had been made on its consolidation because the National Manpower Commission had not been restructured.

The productivity-based wage agreements in the mining and automotive assembly industries could be regarded as important developments.

Altogether 613 strikes in sectors covered by the LRA claimed 1.24 million man days lost in 1991, but the numbers involved decreased by almost 50 percent on 1990 figures.

Stayaway

Wages were the main cause and the manufacturing industry suffered most in terms of man days lost. In 28 strikes more than 1,000 workers were involved, and each strike lasted seven days on average.

Strike figures did not include public sector disputes and the November 4 and 5 stayaway, when the majority of the country's workforce did not go to work.

Violence in the workplace continued - 22 people were killed and about 90 injured at the President Steyn gold mine in Welkom during November 1991.

The multiracial Federation of Independent Trade Unions, representing some 210,000 workers in 23 unions, was launched in October 1991. Its stated objectives included playing a constructive and moderate role in a free market economy.

A meeting was held between Sacola and three major union federations to discuss a wide variety of economic issues, including trade unionism.

The Minister and the Department of Manpower met twice with Cosatu to discuss a wide variety of subjects concerning trade unionism.

"It is the Department's policy, as far as possible, to consult employers and employees whenever changes are envisaged to the legislation administered by the department," wrote the Director-General of Manpower, Mr Joel Fourie.

For the first time in many years, a full-time deputy, Mr Glen Carelse, was appointed to help the Minister of Manpower, Mr Phepow Magash.

The number of employers' organisations dropped from 271 in 1987 to 214 last year.

Trade union membership of registered unions rose from 1.7 million in 1987 to 2.75 million in 1991 and about three million employees belonged to registered and unregistered trade unions in terms of the Labour Relations Act.

Agreements

Eighty-nine of the 141 agreements reached during the year related to the informal sector on October 31, 1991, and more than R31 million on skills training for the formal sector.

Altogether 550,000 people were paid unemployment insurance benefits in 1991, against R1.4 million in 1990.

The number of cases referred to the Industrial Court, but the number of matters which could not be finalised increased by 39 percent.

The Labour Appeal Court heard 65 cases in 1991.

Altogether 7,280 consultation boards were established following 17,114 applications between November 1, 1990, and October 31, 1991.

Altogether 5,209 disputes were referred to Industrial Councils, of which 2,101 were settled. If not settled, they were referred to the Industrial Court, arbitration, mediation or eventually ended in deadlock.
PRETORIA — The Public Servants' Association has submitted its final recommendations to the Commission for Administration for a new labour relations deal for government workers.

The PSA wants included in the legislation, expected to come before Parliament before the end of the current session, the right to conciliation and arbitration, access to the Industrial Court and the right to strike.

PSA GM Hans Olivier said the PSA stressed in its submission its responsibility to take effective action against unacceptable salary and service conditions.

"Although we have asked for the right to strike, we would want to avoid a situation such as that which has developed in Germany at all costs," he said.

But, he added, government workers could not continue to be at the complete mercy of government when it came to service conditions.
Farm legislation stalls at go-nowhere summit

As the drought deepens, legislation to protect farmworkers is still as distant as rainclouds on the horizon

FERIAL HAFFAJEE reports

With just three months to go before the sitting of parliament ends, proposed legislation for farmworkers has been bogged down deep in the mud. And the possibility of smooth passage for this legislation is becoming more and more bleak.

May 7 was supposed to be D-day, the day the Congress of South African Trade Unions (Cosatu) and the National Union of Metalworkers of South Africa (Numsa) agreed to a new framework for settling farmworker disputes. The agreement was that the farmworkers would have 90 days to negotiate a new contract, and that the conference would then meet again to discuss progress.

However, the conference was not held on May 7 as scheduled. The farmworkers and the employers agreed to a new date of June 22.

The delay was due to the fact that the farmworkers were still waiting for their new wheels because of a two-week strike at the company's Durban premises.

Every day 430 motor cars do not roll off the assembly line and the 6,000 workers on strike lose R800 000 in wages. Experts estimate that the company lost just R800 million in turnover and the communities where workers live have lost R5,2 million in wages. Workers would have spent the money.

In addition, the company's 68 component suppliers have lost R85 million with the figure doubling daily.

These are the startling statistics behind the strike which was sparked by the actions of an allegedly racist line manager who practise outdated industrial relations, alleges the National Union of Metalworkers of South Africa.

The union says that management was alerted to workers' dissatisfaction with the line manager in February and failed to do anything about it.

"We feel that if workers come back to work now, management might come up with delaying tactics so problems must be resolved while we are on strike," says May 7.

On May 7, the company was granted an interdict by the industrial court forcing workers to go back to work. Workers have ignored the interdict and are adamant about staying on strike "even for a thousand days."

The call for the dismissal of the line manager has been extended, two other senior managers are also on the firing line. In addition, workers are demanding the reinstatement of a shop steward dismissed six months ago.

Numsa regional organiser in Durban, Magogaleng, has said that the parties held five meetings to iron out the dispute.

On Wednesday they worked late into the night to find a way out of the impasse.

Everything keeps going wrong at Toyota plants

BY FERAL HAFJAESE

Many prospective Toyota buyers face a frustrating wait for their new wheels because of a two-week strike at the company's Durban premises.

Every day 430 motor cars do not roll off the assembly line and the 6,000 workers on strike lose R800 000 in wages. Experts estimate that the company lost just R800 million in turnover and the communities where workers live have lost R5,2 million in wages. Workers would have spent the money.

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On Wednesday they worked late into the night to find a way out of the impasse.
AS Sona Bendoro said in the 1989 edition of this book, this is no academic treatise. It is intended to fulfill a need among industrial relations practitioners and students for a comprehensive reference book on industrial relations in South Africa.

It may not be a "treatise", but it is clearly rooted in a strong academic background, which makes it authoritative and serious. While only those with a deep interest in the subject would read the entire volume, the topics are treated thematically. This makes them accessible to anyone who may have an interest in a smaller area within the broad subject area of labour relations. This accessibility is enhanced by the way each chapter begins with a clear summary of its contents, making it easy to cover the subject area quickly and in depth where the need arises.

The subject matter is systematically covered from the ground up. From an analysis of work and the labour relationship to the philosophical and historical background of labour relations; from economic theory and analyses of trade unions to collective bargaining and methods of negotiation, the background is clearly set out and well researched. They may be some in the labour camp who will be unhappy with the way the general background part of the book is written — in the style of enlightened management textbooks — but this cannot be regarded as a flaw. Also, the part dealing with economic theory may not be popular in this constituency.

It is in the area of industrial relations in the South African context that this book really shines. A succinct history of trade unions in South Africa from the earliest time, seen in its political and legislative context, sets the scene. A detailed examination of employer bodies, trade unions and state structures and the legislative framework of labour relations including employment law and safety legislation follows.

Finally, the book includes annexures of union membership figures, the Workers' Charter, some Congress of South African Trade Unions policy documents, the South African Business Charter, the Saccola Accord, the Labour Market and examples of recognition, disciplinary and grievance procedures.

To her target group of students and IR practitioners, the author could confidently have added personnel managers, trade unionists and government labour officials. All of these are likely to find parts of this book invaluable and many will refer to it repeatedly in the course of their work.

Stephen Heyns
Labour reform ‘still needed’

GENEVA — The UN International Labour Organisation said yesterday that South African labour laws still needed wide-ranging reform, but cited the government’s awareness of that fact as a hopeful sign.

A report by a special ILO commission, appointed to investigate labour relations in South Africa, also said “anti-union violence which has prevailed in South Africa is totally unacceptable” and demanded the government bring perpetrators to trial.

The rights to form a trade union and to collective bargaining are “vital attributes of a free society”, the report by three law experts said.

The report urged Pretoria to push “vigorously” for reforms of the country’s Labour Relations Act, which should include ensuring the independence of trade unions, the right to strike and collective bargaining rules.

It noted that reforms had begun under President F W de Klerk but said further “changes should ensure that basic civil liberties are provided by law and guaranteed in practice in a democratic society.”

South Africa is not a member of the ILO, whose conventions set down international labour standards.

The report urged Pretoria to join key ILO conventions on freedom of association and collective bargaining.

The panel held hearings with union, employer and government representatives in South Africa last February.

Heading the panel was Sir William Douglas, a former Jamaican high court judge — Sapa-AP.
Clive Thompson on unions' role in a new economy: 'Time for a rethink'

Clive Thompson

Shaping policy
on unions' role in a new economy

The year 1999 was a turning point for the labor movement

[Diagram with a network of connections and arrows, indicating relationships and interactions, likely related to the theme of policy and economy, particularly unions.]
New initiative is launched to revitalise inner Jo'burg

THE launch of the Central Johannesburg Partnership (CJP) was the start of a tough initiative to revitalise the inner city area, chairman Cliff McMillan said last night.

The co-operation of all involved — the city council, business and the community — would ensure tangible results, he said. All three partners contributed to resources in different ways, providing time and expertise on a continuing basis. The business community had accepted the responsibility to fund the partnership while the council made its resources available.

Speaking at the launch, McMillan said the partnership offered the vehicle for a coherent strategy. The partners were involved through enlightened self-interest.

Executive committee chairman Gerald Leesner said the funding of the partnership would take several forms.

Major players in the inner city area had been approached to either extend a low interest loan of R500 000 each or contribute R50 000 a year.

It was hoped R10m would initially be raised from loans or debentures.

Johannesburg City Council management committee chairman Ian Davidson said the business community had approached the council and indicated it was willing to have a special levy introduced on companies in the inner city area.

This was an informal approach, Davidson said. Once a formal application was made it might have to be taken to provincial or government level, but the council would only consider it if the business community was convinced it was what they wanted.

Johannesburg Civic Associations general secretary Cas Coovadia said negotiations were underway to buy seven buildings in Hillbrow and Joubert Park.

"The aim, he said, was to put the pilot project on the partnership's agenda for the development of social housing in the inner city area. The buildings' owners had approached the council and were asking for R10m. This was under negotiation.

The key aspect was affordability and the private sector had been asked to finance loans of between R10m and R18m at interest rates of 10% to 11%. Existing tenants would not be displaced, and would become owners of the units over time as security of tenure altered people's perceptions of maintenance and security," he said.

Chairman Alec Gullen said the security task group was negotiating with the SA Police about the establishment of satellite police stations. "The SAP has been asked to contribute manpower, while the CJP will fund all the running costs.

Farm strike at issue in negotiations

PRETORIA — The SA Agricultural Union (SAAU) and Cosatu are still locked in negotiations on the application of labour laws to the country's more than 1-million agricultural workers.

Although the two sides had edged closer, the major issue of curbing farm strikes remained, an SAAU spokesman said.

Also still to be agreed on is the possible application of the Basic Conditions of Employment Act to the industry.

SAAU representatives, the National Manpower Commission and Cosatu will meet again shortly.

According to agriculture sources, nearly the whole industry is opposed to the application of inflexible labour laws.
New plan to form union for workers on farms

By JESSICA BEZUIDENHOUT

An independent trade union for farmworkers — which would campaign for the abolition of child labour, the right to organise on farms and for recognition agreements with farmers — will be established soon.

This was decided by about 200 farmworkers at a national conference held at a Bellville hotel this week.

The conference, organised by the Food and Allied Workers Union (Fawu), decided that Fawu should form a national committee to oversee the organisation of farmworkers until such time as an independent union could be formed.

Several resolutions — on issues such as the drought, housing and the Labour Relations Act — were discussed at the conference.

On the drought, it was felt that government aid to farmers should be given only on condition that farmworkers were not retrenched.

The conference demanded that farmworkers be covered by the Unemployment Insurance Fund.

Recognition agreements should address social problems, and the union would also campaign for health and safety demands and compensation for affected workers.

Workers should be provided with proper housing off the farms so that they did not lose their homes when they lost their jobs.

The conference also demanded the immediate extension of the Labour Relations Act (LRA) and the Wage Act to include farmworkers, and the abolition of the Trespassing and Squatting Act.

Mass action would be considered if the government failed to meet these demands.

The conference followed a public meeting at the Claremont Civic Centre on Wednesday addressed by SA Communist Party leader Mr Chris Hani and suspended MP Mr Jan van Eck.

Mr Hani told the meeting that for years farmworkers had been the most exploited workers as a result of their exclusion from the labour laws of the country.

Mr van Eck said workers should have the same right to vote as their employers and should not allow their employers to decide for whom they should vote. 
Farm Bill is attacked by all

Sowetan Correspondents

THE Government has been attacked from all quarters following the tabling of the Farm Conditions of Employment Bill last Friday.

While the ANC is seeking to have the Bill implemented as soon as possible to expedite employment rights for farmworkers, the SAAU and National Maize Producers Organisation are angered with what they claim is a Government breach of promise.

Nampo claims negotiations between itself, the SAAU and Cosatu over the content of the Farm Conditions of Employment Bill, the Labour Relations Bill and the Wage Bill are incomplete.

Organised agriculture sources believe there is a veiled threat to Manpower Minister Mr Leon Wessels that without the full support of the farmers, the Bill, when promulgated, will not be successful.

"All we are saying is that if the Government does not consult us, its chances of implementing the laws are slim," said a source.

Conversely, the ANC has accused the Government of pandering to the SAAU by delaying the passage of the Bill, claiming that no negotiations had been planned with the SAAU.

The ANC said the Bill had been the subject of high-level negotiations in the National Manpower Commission for more than two years, and the final draft version which resulted represented the interests of the groups involved. There was, therefore, no reason to re-open talks.
Government agrees: Law must change

Labour
Talks on farm labour laws suspended

The Congress of South African Trade Unions has suspended talks with the SA Agricultural Union (SAAU) about labour laws for the agricultural sector.

Cosatu campaign co-ordinator Lisa Seitel said Cosatu would resume talks when the Minister of Manpower set a date for the promulgation of the Basic Conditions of Employment Bill and the Unemployment Insurance Bill, which make the existing Acts applicable to farmworkers.

She said the SAAU wanted the Unemployment Insurance Bill to be implemented next year. Cosatu wanted both Bills to be promulgated immediately.

SAAU deputy director of general services Kobus Kleynham said it appeared that negotiations had reached a standstill.
Breakdown in Cosatu's talks with farmers' union

PRETORIA — Negotiations between the SA Agricultural Union (SAAU) and Cosatu on the application of the Labour Relations Act and the Wage Act to farm workers have stalled after months of fruitless meetings, SAAU deputy director Kobus Kleynhans said yesterday.

Cosatu had cancelled two meetings, scheduled for June 8 and 18, he said. "We do not know whether they intend coming back to the negotiating table, or whether there has been a total breakdown."

Kleynhans said the SAAU was uncertain whether Cosatu was the appropriate organisation to deal with on the future labour conditions of farm workers.

"We are looking at the possibility of speaking to and negotiating with other bodies, such as the tribal chiefs, who are more closely in touch with farm workers than Cosatu, political parties and the Rural Foundation."

On the legislative amendments passed by Parliament last session to include farm workers in the Unemployment Insurance Act, Kleynhans said the SAAU was negotiating with the Manpower Department to have promulgation of the amendment postponed until the year's end.

"Then, we believe," other 12 months should be allowed for the 86 000 farmers involved to re-organise, "in terms of the legislation."

On the other controversial amendment accepted by Parliament — the application of the Basic Conditions of Employment Act to farm workers — Kleynhans said this was opposed by the SAAU and the majority of farmers.
No Job Protection for the Strikers

The two-day politically motivated stayaway will be illegal, warns Rod Harper
DISMISSAL cases in the Industrial Court and Labour Appeal Court have increased sharply, writes ADRIAN HERSCH.

Statistics compiled by Van Zyl, Rudd & Associates show that challenges to dismissal in the first six months of this year more than doubled compared with the same time last year.

Continuing recession means that employees are becoming more determined to keep their jobs.

Sackings contested

But most cases relate to industrial court powers and functions — which could result in a move to arbitration.

Brian van Zyl says the Labour Relations Act (LRA) as it now stands — presents problems about the jurisdiction of the industrial court.

Mr Van Zyl says the restructuring of the LRA is expected to deal with these problems.
Overtime ban is ‘unfair practice’

**By Ike Motsapi**

A CONCERTED refusal by employees to work voluntary overtime which they had worked regularly constitutes an unfair pressure and labour practice.

This is the view of Peter Grealy and Sara Gan of Webber Sheplestone Findlay following a recent Appellate Court Division judgment in the case of the National Union of Metalworkers of South Africa (Numsa) versus Macsteel Grealy and Co., writing in People’s Dynamics, said the judgment ended years of controversy as to whether or not pressure tactics during negotiations were legitimate.

Macsteel originally obtained an interim interdict in the Industrial Court requiring workers to terminate a collective ban on overtime embarked upon during wage negotiations.

**■ FINAL RULING** Appellate Division rules employees’ action as pressurising employers:

*After the Industrial Court order was served on the union and its members, the majority of employees worked overtime when requested by the company.*

On the return day of the interim interdict the Industrial Court suspended the existing interim interdict. The next day the union members collectively refused to work overtime.

After the two parties had reached an agreement on wages union members agreed to work overtime as requested.

The company then sought a final determination on the issue in the Industrial Court. The court found that the imposition of a collective overtime ban by the union and its members in the performance of voluntary or non-contractual work during wage negotiations was a legitimate pressure tactic which workers could exercise without any notice to the employer in order to test their collective bargaining power.

The Labour Appeal Court reversed the Industrial Court’s decision.

The reason why the ban on overtime was unfair was that it constituted a deviation from the purpose of collective bargaining.

“It, so to speak, pre-empted collective bargaining,” Grealy said.

Gon said: “The Labour Appeal Court had no hesitation in finding that the premature resort to collective action instigated by the union was unfair.

“The fact that the ban on overtime commenced on the day following a mass report-back meeting on negotiations by the union, was in the absence of evidence to the contrary, conclusive evidence in the court’s view of the union’s involvement.”

The union referred the matter to the Appellate Division.

It submitted that it accepted that the refusal by the majority of the workers to do overtime was “concerted action” taken by the employees in order to pressurise the company during wage negotiations.

The union also accepted that it was party to and encouraged this refusal and that the refusal by the employees to work overtime constituted a “labour practice” for the purpose of the definition of unfair labour practice in Section 1 of the Labour Relations Act as amended by the Act of 1988.

The union, however, submitted that it could never be unfair for workers to refuse to do overtime, regardless of the motive, because employees were under no contractual obligation to work overtime. Grealy and Gon said the Appellate Division’s judgment should be welcomed as it emphasised the primary importance of collective bargaining and also recognised that parties should only enter into “power play” as a last resort.
Commission 'balanced'

National Manpower Commission chairman Frans Barker says the decision of Manpower Minister Leon Wessels to restructure the commission strikes a healthy balance between the interests of the various parties to the commission.

Barker said the immediate issues on its agenda included the consolidation of the Labour Relations Act (LRA) — including the issues of the registration of unions, industrial councils and strike law. The NMC had to decide on whether courts or legislation should clarify disputes around retrenchment and dismissal.

Other issues on its agenda were likely to include affirmative action and improving productivity.

He said the issue of independent members to the commission — and how they should be dealt with — was likely to be the most controversial matter for the other parties to the commission. He emphasised that the commission working group itself could not reach consensus on this.

Wessels said the one third of the members of the commission delegat-ed by the Minister would consist of the chairman, deputy chairman, departmental representatives and expert (legal and otherwise) appointed by the department.

The other two thirds will be representatives of employers and labour chosen by those constituencies. The Minister would also hear the views of majorities and minorities.

Wessels stressed the commission advise the Minister. But DP spokesman Robin Carlisle said it would serve little purpose unless and until government gave it decision-making power so it could function as a true labour relations forum.

Cosatu said its executive would be meeting in a week's time to decide on whether or not to participate.

Its preconditions for participating included that the department be bound by majority decisions, that public sector parties be represented and that consensus in the commission be put directly to Parliament.

Comment. Page 10
Penalties for enterprise

JOHAN NAUDE

Johan Naude is senior manager of development at the Small Business Development Corp.

Efforts to revitalise the economy can benefit from a hard look at the impact of labour law on the small, or developing, business sector.

The statutory framework for labour relations evolved during the Eighties, within formal collective bargaining structures. These were dominated by the larger employers, the benefits of labour democracy were secured for thousands of employees.

But to what extent can our labour legislation be reconciled with the need for economic growth?

The recent report of the National Manpower Commission (NMC) on the influence of labour law on the small business sector accepted a number of important principles.

The report says it is imperative that more South Africans become involved in the ownership of the means of production. It stresses the need for accelerating the development of entrepreneurs.

One way to achieve this would be to acknowledge legally the special circumstances and structural weaknesses of smaller businesses.

The NMC report recommends that micro enterprises (those with no more than five permanent employees), as well as new small businesses still in their first year, should get automatic concessions in terms of the Workmen’s Compensation Act, the Unemployment Insurance Act and the Machinery & Occupational Safety Act. More fundamental are proposals to make the system of exemptions more accessible.

A compromise is necessary between protecting jobs and protecting workers. Here a distinction must be drawn between:

- Costly legal requirements that undermine start-up and growth prospects, and
- Principles that ensure fairness.

The report says there should not be interference in the autonomy of industrial councils. However, it recommends that where parties to an industrial council have requested the promulgation of a wage agreement, the Manpower Minister may refuse this unless the council has tried to meet the needs of small business.

To what extent will such an approach be followed in practice?

Industrial councils are inherently biased against competition. The development needs of the small business sector are not being accommodated because of the centralised nature of industrial bargaining. Negotiation forums are dominated by larger employers (and unions). Their agreements impose requirements more suitable to big companies — though some small employer bodies have recently acquired representation on industrial councils to try to rectify this.

More emphasis should be placed on regional or geographic agreements. Micro enterprises should also be exempted from such cost requirements as minimum wages, social security contributions, prescribed equipment and record-keeping — or have them phased in gradually.

The reliance on existing exemption procedures is over-optimistic — despite the recommendation that such applications should be treated more seriously and that micro businesses be more aware of their exemption rights.

Industrial councils need to become more accountable for their decisions. It may be necessary to impose statutory requirements on them to comply with the rules of natural justice.

Wealth creation through small business development can happen only if structural inequalities are removed. For example, it is not entirely clear to what extent the interests of the small business sector will be represented on a reconstituted NMC.

Equity has often been cited as a primary reason for strict compliance with all provisions of the labour law. But surely there is merit in determining compliance based on size and affordability.

We cannot go forward with a burdened small business sector. There has to be consultation, negotiation and compromise in order to achieve the goals of economic development.
Guide to holding of proper strike ballot

By Ike Motsapi

RECENT Industrial Court decisions, have resulted in trade unions wondering what constitutes a proper strike ballot for the purpose of Section 65 of the Labour Relations Act (LRA).

The strike by the National Union of Metalworkers of South Africa (Numsa) was declared null and void by the Pretoria Supreme Court after the court found that there had been some irregularities during balloting.

People's Dynamics on Labour Law in South Africa has published an article on the issue of what constitutes a proper strike ballot.

Among the guidelines are:

1. A ballot officer must make the necessary arrangements for the holding of the ballot, supervise the conducting of the ballot and ensure that the procedure in the union's constitution is strictly adhered to.

2. The ballot officer should give the employer reasonable written notice of the date, time and place of the ballot and invite him to send an observer to witness the balloting.

3. Where an employer permits a ballot to be held on his premises, the ballot officer should ensure that the balloting is not disruptive.

4. The issue upon which the ballot is to be taken must be the same issue which formed the subject of the dispute between the parties at the Industrial Council or Conciliation Board meeting.

5. The issue as it appears on the ballot papers, in one of the official languages, should be clear, concise and understandable.
on behalf of that union or organization, in furtherance of a strike or lock-out. Provided that this indemnity shall not apply to any act committed in furtherance of any strike or lock-out in which, or in the continuation of which, any employee, employer or other person is by section 65 forbidden to take part, or to any act the commission of which is a criminal offence, or any action contrary to a non-strike or non-lock-out agreement."


10. The long title of the principal Act is hereby substituted by the following long title

"To consolidate and amend the law relating to the registration and regulation of trade unions and employers’ organizations, the prevention and settlement of disputes between employers and employees, and the regulation of terms and conditions of employment by agreement, [and] arbitration and labour codes, to provide for the establishment of a National Manpower Commission and to define its functions; to provide for the establishment of an industrial court and to define its functions, to provide for the establishment of a special labour court and to define its functions; to provide for the establishment of a labour appeal court and to define its functions, to provide for the control of labour brokers and the registration of labour brokers’ offices; and to provide for incidental matters."

Short title and commencement

11. (1) This Act shall be called the Labour Relations Amendment Act, 1993, and shall come into operation on a date fixed by the State President by proclamation in the Gazette

(2) Different dates may be so fixed in respect of the different provisions of this Act

(31 December 1992)

NOTICE 1178 OF 1992

DEPARTMENT OF TRANSPORT

AIR SERVICE LICENSING ACT, 1990

(ACT.No. 115 OF 1990)

Pursuant to the provisions of section 15 (1) (b) of Act No 115 of 1990 and regulation 8 of the Domestic Air Services Regulations, 1991, it is hereby notified for general information that the application details of which appear in the Schedule hereto, will be considered by the Air Service Licensing Council

Representations in accordance with section 15 (3) of Act No 115 of 1990 in support of, or in opposition to, an application, should reach the Air Service Licensing Council, Private Bag X193, Pretoria, 0001, within 21 days of the date of publication hereof

KENNISGEWING 1178 VAN 1992

DEPARTEMENT VAN VERVOER

WET OP DIE LISENSIERING VAN LUGDIENSTE, 1990 (WET NO 115 VAN 1990)

Hierby word ingevolge die bepaling van artikel 15 (1) (b) van Wet No 115 van 1990 en regulase 8 van die Regulasies vir Binnelandse Lugdienste, 1991, vir algemene inligting bekendgemaak dat die Lugdienstensieringsraad die aansoek waarvan besonderheide in die Bylae hieronder verskyn, sal oorweg

Voorbeelde van ingevolge artikel 15 (3) van Wet No 115 van 1990 ter ondersteuning of bestryding van ‘n aansoek moet die Lugdienstensieringsraad, Privaat Sak X133, Pretoria, 0001, binne 21 dae na die datum van publikasie hiervan bereik
in the form of a labour code or the amendment of a
labour code referred to in subsection (2) and re-
quest that the labour code or amendment referred to,
be declared binding upon the parties who sub-
mitted the labour code or amendment. Provided
that the provisions of subsections (2) (b) and (3)
shall mutatis mutandis apply in respect of the pub-
lication, suspension or amendment of such labour
code or amending labour code

(5) Any labour or amending labour code
declared binding in terms of subsection (4) upon all
the members of the group or association of em-
ployers referred to in subsection (4), shall be bind-
ing upon every employer who was a member of
such group or association on the date on which the
labour code or amending labour code was con-
cluded, or who thereafter became a member, dur-
ing the whole period, during which such labour
code or amending labour code is binding upon the
members of such group or association, whether he
remains a member of such a group or association
or not.

(6) The Minister or an officer designated by him
for that purpose, may, on application, grant
exemption from any provision of a labour code
made under subsection (2) or (4) or amending
labour code made under subsection (4), to or in
respect of any person for such period and subject
to such conditions as the Minister or such officer,
as the case may be, may determine.

(7) Any exemption granted—

(a) by the Minister or any such officer may at any
time be withdrawn by the Minister, or

(b) by any such officer may at any time be with-
drawn by that officer or by any other officer
designated by the Minister for that purpose.

(8) An industrial council agreement or a concilia-
tion board agreement or any matter regulated in
terms thereof in respect of an employee, shall not
be affected by a labour code, but a labour code
shall be applicable in respect of such an employee
in so far as a provision thereof provides for a
matter which is not regulated by or in terms of the
agreement referred to, in respect of such an em-
ployee."

Amendment of section 79 of Act 28 of 1956,
as substituted by section 26 of Act 83 of 1988
and section 12 of Act 9 of 1991

9. Section 79 of the principal Act is hereby
amended by the substitution for subsection (1) of
the following subsection:

"(1) No civil legal proceedings shall be brought
in any court of law against any employee,
employer, registered trade union or employers’
organization, or against any member, office-bearer
or official of any such union or organization in
respect of any breach of contract, breach of statu-
tory duty or delict (other than defamation) com-
mitted by that employee, employer, union or or-
ganization, or by that member, office-bearer or official
die wysiging van 'n arbeidskode bedoel in subarti-
kel (2) aan die Minister voorlê en versoek dat be-
doelde arbeidskode of wysiging bindend verklaar
word vir die partye wat die arbeidskode of wysiging
voorlê het. Met dien verstande dat die bepaalings
van subartikels (2) (b) en (3) mutatis mutandis
van toepassing is ten opsigte van die publikasië, intrek-
kings of wysiging van sodanige arbeidskode of
wysingsarbeidskode

(5) Enige arbeidskode of wysings-
arbeidskode wat kragtens subartikel (4) bindend is
op die lede van die groep of vereniging van werk-
gewers soos in subartikel (4) bedoel, is bindend op
elke werkgever wat 'n lid was van sodanige groep
of vereniging op die datum waarop die arbeids-
kode of wysingsarbeidskode aangenaam is, of wat
daarna 'n lid geword het, gedurende die hele tyd-
perk waarin sodanige arbeidskode of
wysingsarbeidskode bindend is op die lede van
sodanige groep of vereniging, hetsy hy 'n lid van
so 'n groep of vereniging by al dan nee.

(6) Die Minister of 'n beampte deur hom vir dié
doel aangewys, kan, op versoek, vrystelling ver-
leen van enige bepaalings van 'n arbeidskode krag-
tens subartikel (2) of (4) of wysingsarbeidskode
kragtens subartikel (4) gemaak, aan of ten opsigte
van enige persoon vir die tydperk en onderworpe
aan die voorwaardes wat die Minister of bedoelde
beampte, ne gelang van die geval, bepaal.

(7) 'n Vrystelling wat toegestaan is—

(a) deur die Minister of so 'n beampte kan te
eniger tyd deur die Minister ingetrek word,
of

(b) deur so 'n beampte te eniger tyd deur die
beampte, of deur enige ander beampte deur
die Minister vir dié doel aangewys, ingetrek
word.

(8) 'n Nywerheidsraadoorloons of 'n
versoeningsraadoorloons van 'n aaneengehe-
daar kragtens ten opsigte van 'n werkner geree-
word nie deur 'n arbeidskode geraak nie, maar 'n
arbeidskode is ten opsigte van so 'n werkner
ten toepassing vir sover 'n bepaaling daarvan vir
'n aaneengeheenheid voorsiening maak wat nie ten
opsigte van so 'n werkner of kragtens
bedoelde ooreenloons geree word nie."

Wysiging van artikel 79 van Wet 28 van 1956,
soos vervang deur artikel 26 van Wet 83 van
1988 en artikel 12 van Wet 9 van 1991

9. Artikel 79 van die Hoofwet word hierby gewysig
deur subartikel (1) deur die volgende subartikel te ver-
vang

"(1) Geen enige geregte stappe word in
enge geregtshof teen 'n werkner, werkgever,
egerigte of vakvereniging of werkgeversorga-
nsaie of teen 'n lid, amptsaar of beampte van so
'n vereniging of organisasie ten opsigte van enge
kontrakbreuk, verbreking van 'n statutêre verplig-
ting of onregmatige daad (behalwe laster) deur
daardie werkner, werkgever, vereniging of
organisasie, of deur daardie lid, amptsaar of
NOTICE 1176 OF 1992
DEPARTMENT OF AGRICULTURE
AGRICULTURAL PRODUCT STANDARDS ACT, 1990 (ACT No. 119 OF 1990)
REGULATIONS RELATING TO DAIRY PRODUCTS AND IMITATION DAIRY PRODUCTS: PROPOSED AMENDMENT


The proposed amendments are available for inspection and copies can be obtained from the Executive Officer: Agricultural Product Standards, Private Bag X258, Pretoria, 0001, Telephone (012) 206-3259, Fax (012) 206-3267.

Interested parties who wish to comment on the proposed amendments are invited to forward their comments in writing to the above address by not later than 31 January 1993.

D. P. KEETCH,
Executive Officer: Agricultural Product Standards.
(31 December 1992)

NOTICE 1177 OF 1992
DEPARTMENT OF MANPOWER
PROPOSED AMENDMENT OF THE LABOUR RELATIONS ACT, 1956

1. A draft Amendment Bill, set out in the Schedule hereto, is published as a working document for general information and comment.

2. (a) All interested parties are invited to submit written comment on the Draft Amendment Bill as soon as possible. Such comment should be forwarded to the Director-General, Manpower, Private Bag X117, Pretoria, 0001, or Fax No. (012) 320-0799 for the attention of Mr. P. Viljoen [Tel No. (012) 310-6427].

(b) Comment should reach the Director-General by not later than 26 February 1993.

(c) The name, telephone number, fax number and address of a person who may be contacted in regard to the comment should also be stated clearly.

3. The final Amendment Bill will be submitted by the Department of Manpower to the Government after the comment received on the working document appearing in the Schedule has been processed.

4. The working document must be read against the following background:

(a) Provision is made for a special labour court and negotiations are taking place to create the infrastructure for such a special labour court but it may take a considerable time before it becomes operational.

KENNISGEWENGE 1176 VAN 1992
DEPARTEMENT VAN LANDBOU
WET OP LANDBOUPRODUCTSTANDAARDE, 1990
(WET No. 119 VAN 1990)
REGULASIES BETREFFENDE SUIWELPRODUCTE EN NAGEMAAKTE SUIWELPRODUCTE VOORGESTELDE WYSIGING

Die Uitvoerende Beambte Landbouproduktstandaarde is voornemens om die Minister van Landbou te versoek om die Regulasies betreffende Suwelprodukte en Nagemaakte Suwelprodukte, gepubliseer deur Goewermentskennisgewing No. R 2581 van 20 November 1987, soos gewysig deur Goewermentskennisgewing No. R. 2141 van 6 Oktober 1989, verder te wysig.

Die voorgestelde wysings is ter insae beskikbaar by en aknifte kan bestel word vanaf die Uitvoerende Beambte Landbouproduktstandaarde, Privaatsak X258, Pretoria, 0001, Telefoon (012) 206-3259, Faks (012) 206-3267.

Belanghebbendes wat kommentaar op die voorgestelde wysings wil lever moet genoot om dit skriflik voor of op 31 Januari 1993 by bovemelde adresse te dien.

D. P. KEETCH,
Uitvoerende Beambte Landbouproduktstandaarde
(31 Desember 1992)

KENNISGEWENGE 1177 VAN 1992
DEPARTEMENT VAN MANNEKRAAG
VOORGESTELDE WYSIGING VAN DIE WET OP ARBEIDSPERVERHOUDINGE, 1956

1. ’n Konsepwyssigingswetsontwerp wat in die Bylae hieronder verskyn, word as ’n werksdokument vir algemene inligting en kommentaar gepubliseer.

2. (a) Alle belanghebbendes word versoek om so spoedig moontlik skriflik kommentaar op die Konsepwyssigingswetsontwerp te lever. Die kommentaar moet gestuur word aan die Direktor-Generaal: Mannekraag, Privaatsak X117, Pretoria, 0001, of Faksno: (012) 320-0799 vir die aandag van mnr. P. Viljoen [Tel No. (012) 310-6427].

(b) Kommentaar moet die Direktor-Generaal nie later nie as 26 Februarie 1993 bereik nie.

(c) Die naam, telefoonnommer, faksnommer en adres van ’n persoon met wie oor die kommentaar geskakel kan word, moet ook duidelik gemeld word.

3. Die finale Wyssigingswetsontwerp sal deur die Departement van Mannekraag aan die Regering voor-gelê word nadat kommentaar wat op die werksdokument wat in die Bylae verskyn, verwerk is.

4. Die werksdokument moet gelees word teen die volgende agtergrond:

(a) Daar word vir ’n spesiale arbeidschop voorsiening gemaak en onderhandelings is aan die gang om die infrastruktuur vir so ’n spesiale arbeidschop te skop maar dit kan ’n geruime tyd neem voordat dit operasioneel sal wees.
(b) The establishment of rights without a structured mechanism to enforce such rights, is still problematic.

(c) Consensus between employers and especially between the South African Agricultural Union and the employees who served on the National Manpower Commission, could not be reached on the following matters—

- whether guidelines on codes should be published together with the draft bill,
- the manner in which the code should be drafted and by whom;
- the manner in which an order for reinstatement should function,
- the procedures to settle disputes,
- time limits to settle disputes,
- quite a number of aspects regarding the special labour court;
- certain aspects concerning non-strike and lock-out agreements, and
- the manner in which the extension of the Labour Relations Act to agriculture should take place.

(d) The NMC recommended that the Act should be flexible, clear and certain. In order to achieve this, it was recommended that a code should be drafted. The Department agrees with this approach and would recommend to Government that a code is a prerequisite to achieve the objective suggested by the NMC. An acceptable code should therefore exist at the time the amendments become law. It will be unfair towards both employers and employees to expect from them to be au fait with the principles set out in the numerous decisions of the various courts.

(e) Consensus could also not be reached by the NMC whether a labour code should be of a sectoral or national nature. As the present investigation was only in respect of agriculture, the Department suggests that both sectoral and national codes for agriculture should be possible. The different sectors of agriculture are so diverse that it should be possible for that specific sector to also bring about a code. Whether this principle should be extended to the other sectors of the economy is a matter which could be further investigated.

(f) The NMC has recommended that the labour codes should have legal force. By making the labour code part of the definition of an unfair labour practice, legal force is given thereto by the enforcement of the rights and liabilities linked to the compliance of this definition.

(g) The principle of self-governance which was recommended by the NMC, is also included in the enabling provision for a code (proposed section 51B). It is possible for parties to also bring about the guidelines for a code by means of a collective agreement.
agreement, as is presently the case of some industrial councils. Provision is also made for the possibility of a non-strike or non-lock-out agreement. The definition of "an agreement" in the Act is extended to give legal force to this recommendation of the NMC. At this point in time the suggestion is limited to agriculture, as the investigation by the NMC was limited to agriculture only.

(h) The NMC has made divergent recommendations regarding reinstatement orders. The Department recommends that, if a party chooses to follow the normal process, he can obtain such a reinstatement order from the industrial court. If a party, however, chooses to speedily finalise the matter at the special labour court, it is recommended that the special labour court be limited to awarding compensation and not reinstatement. This recommendation by the Department is also limited to agriculture as the investigation by the NMC only dealt with agriculture.

(i) In view of the viewpoints taken on the NMC that it is expedient that a dispute should be settled at the lowest possible level, a new section 42 (1A) is proposed in which a conciliation board will play an important role in the settlement of disputes. It will also enable employers and employees in agriculture to achieve this object with the settlement of disputes by means of collective labour codes, as referred to in the proposed section 51B(4).

SCHEDULE

GENERAL EXPLANATORY NOTE:

[ ] Words in bold type in square brackets indicate omissions from existing enactments

——— Words underlined with a solid line indicate insertions in existing enactments

BILL

To amend the Labour Relations Act, 1956, so as to define certain expressions; to make the Act applicable to farming activities; to provide for the establishment of a special labour court; to provide for labour codes and to provide for matters connected therewith.

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:

Amendment of section 1 of Act 28 of 1956, as amended by section 1 of Act 41 of 1959, section 1 of Act 104 of 1967, section 1 of Act 94 of 1979, section 1 of Act 95 of 1980, section 1 of tans die geval is by sommige nywerheidsrade. Daar word ook die moontlikheid van geen stakings- of -uitsluitingsooreenkomms voorsiening gemaak. Die definisie van "n coreenkom" in die wet word uitgebrei om regskrag aan hierdie aanbeveling van die NMK te gee. Op hierdie tydperk word die voorstel beperk tot die landbou, aangesien die ondersoek van die NMK slegs tot die landbou beperk was.

(h) Die NMK het uiteenlopende aanbevelings oor herindienststellingsbevele gemaak. Die Departement beveel aan, dat indien 'n party verkeer om deur die gewone proses te gaan, hy wel so 'n herstelbeveel by die nywerheids Hof kry. Indien 'n party egter kies om die saak spoedig te finaleer, kry hy die spesiale arbeidshof, wat word aanbeveel dat die spesiale arbeidshof beperk word tot die toeken van kompensasie en nie herindienstelling nie. Hierdie aanbeveling van die Departement is ook slegs beperk tot die landbou omdat die ondersoek van die NMK slegs oor die landbou gehandel het.

(i) In die lig van die standopunte op die NMK dat dit wenslik is dat 'n geskikte op die laaste moontlike vlak beslag behoor word, word 'n nuwe artikel 42 (1A) voorgestel waarmee 'n versoeningsraad 'n belangrikere rol sal speel in die besluitgemaak van geskikte. Dit sal ook vir werkgevers en werknemers in die landbou moontlik wees om hierdie oogmerk met geskikte besluitgemaak oor middel van kollektiewe arbeidskodes, soos in die voorgestelde artikel 51B(4) bedoel, te bereik.

BYLAE

AGLEMENE VERDUidelIKENDE NOTA:

[ ] Woorden in vet druk tussen verantwarte hake dui skrappings uit bestaande verordeninge aan.

——— Woorden met 'n volstreep daaronder, dui invoegings in bestaande verordeninge aan

WETSONTWERP

Tot wysiging van die Wet op Arbeidsverhoudinge, 1956, ten einde sekere uitdruklik te omskryf; om die Wet op boerderybedrywighede van toepassing te maak; om voorsiening te maak vir die instelling van 'n spesiale arbeidshof; om vir arbeidskodes voorsiening te maak en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

DAAR WORD BEPAAL deur die Staatspresident en die Parlement van die Republiek van Suid-Afrika, soos volg:

Wysiging van artikel 1 van Wet 28 van 1956, soos gewysig deur artikel 1 van Wet 41 van 1959, artikel 1 van Wet 104 van 1967, artikel 1 van Wet 94 van 1979, artikel 1 van Wet 95 van 1980, artikel 1 van Wet 57 van 1981, artikel 1...

1. Section 1 of the Labour Relations Act, 1956 (hereinafter referred to as the principal Act), is hereby amended—

(a) by the substitution in subsection (1) for the definition of “agreement” of the following definition—

“‘agreement’ means an agreement entered into or deemed to have been entered into by parties to an industrial council or conciliation board under this Act [Provided that for the purposes of an unfair labour practice, it shall include] and also any agreement [enforceable in terms of this Act and] entered into between any [an employer and a trade union or any group of employees in the employment of such employer]—

(a) employer;
(b) group of employers,
(c) employers’ organisation,
(d) group of employers’ organisations,
(e) group of one employer and one or more employers’ organisation, or
(f) group of employers and one or more employers’ organisations,

on the one hand and any—

(g) group of employees,
(h) trade union;
(i) group of trade unions; or
(j) group of employees and one or more trade unions,

on the other hand,

with regard to farming activities;”,

(b) by the insertion in subsection (1) after the definition of “Director-General” of the following definition—

“‘disputes of rights’, disputes arising from an agreement or labour code with regard to farming activities and the unfair dismissal of an employee in employment in connection with farming activities,”;

(c) by the insertion in subsection (1) after the definition of “employers organization” of the following definitions—

“‘farm’ includes fresh water and sea water in so far as farming activities are carried on therein or thereon.

van Wet 51 van 1982, artikel 1 van Wet 2 van 1983, artikel 1 van Wet 83 van 1988 en artikel 1 van Wet 9 van 1991

1. Artikel 1 van de Wet op Arbeidsverhoudinge, 1956 (hieronder die Hoofwet genoem), word hierby gewysig—

(a) deur in subartikel (1) na die omskrywing van “arbeidsappèlhoof” die volgende omskrywing in te voeg—

“‘arbeidskоде’, n arbeidskode wat ingevoel in artikel 51B tot stand gekom kon;”

(b) deur in subartikel (1) na die omskrywing van “beloning” die volgende omskrywing in te voeg—

“‘boerderybedrywghede’, enige bedrywghede op ‘n plek in verband met die landbou, met inbegrip van veesel, tuinbou en bosbou;”

(c) deur in subartikel (1) na die omskrywing van “gebied” die volgende omskrywing in te voeg—

“‘geenstakings- of -uitsluitingsooreenkoms’, enige skrufklike ooreenkoms wat ‘n bepaaling bevat wat ‘n staking of uitsluiting tussen die partye by so ‘n ooreenkoms vir ‘n tydperk van nie langer as 12 maande nie verbied en wat ook nie vir tydperke van langer as 12 maande verleng mag word nie;”

(d) deur in subartikel (1) by die omskrywing van “onbliklike arbeidspraktik” die volgende woorde by te voeg—

“Met dien verstande dat waar ‘n werkgewer of werknommer ooreenkomstig die bepalinge van ‘n artikel 51B arbeidskode en die Wet op Basiese Diensvoorwaardes, 1983 (Wet No 3 van 1983), opgetree het, godongetale optrede as billik geag word totdat die teendeel bewys is en dat enige optrede in stryd met ‘n geenstakings- of -uitsluitingsooreenkoms geag word onbliklik te wees totdat die teendeel bewys is;”

(e) deur in subartikel (1) die omskrywing van “ooreenkoms” deur die volgende omskrywing te vervang—

“‘ooreenkoms’, ‘n ooreenkoms wat deur partye by ‘n nywerheidsraad of versoeningsraad kragte hierdie Wet aangegaan is of wat geag word aldus aangegaan te gewees het [Met dien verstande dat by die toepassing van ‘n onbliklike arbeidspraktik dit en ook enige ooreenkoms [insluit wat ingevoel in die Wet afwervingbaa is en] wat aangegaan is deur enige ‘n werkgewer en ‘n vakvereniging of enige groep werknemers in diens by so ‘n werkgewer]—

(a) werkgewer,
(b) groep werkgewers;
(c) werkgewersorganisasie,
(d) groep werkgewersorganisaties;
"farming activity" means any activity on a farm in connection with agriculture, including stockbreeding, horticulture and forestry;"

(d) by the insertion in subsection (1) after the definition of "labour broker's office" of the following definition:

"'labour code', a labour code brought into existence in terms of section 51B";

(e) by the insertion in subsection (1) after the definition of "Minister" of the following definition:

"'non-strike or non-lock-out agreement', any written agreement which contains a provision which prohibits a strike or lock-out between the parties to such an agreement for a period of not more than 12 months and which may also not be extended for periods of more than 12 months."

(f) by the insertion in subsection (1) after the definition of "secretary" of the following definition:

"'special labour court', a court established by section 17E, and"

(g) by the addition to the definition of "unfair labour practice" in subsection (1) of the following words:

"Provided that where an employer or employee has acted in accordance with the provisions of a section 51B labour code and the Basic Conditions of Employment Act, 1983 (Act No. 3 of 1983), such action shall be deemed to be fair until the contrary has been proven and that any action contrary to a non-strike or non-lock-out agreement shall be deemed to be unfair until the contrary has been proven."


2. Section 2 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) This Act shall not apply to persons in respect of their employment in domestic service in private households, nor to officers of Parliament in respect of their employment as such, nor, subject to the provisions of subsections (3) and (9), to persons employed by the State in respect of their employment as such, nor to any employee of any local authority designated by such authority in terms of any law as chief administrative officer of the local authority, in so far as it concerns the determination of remuneration and other service benefits provided for in the Remuneration of Town Clerks Act, 1984 (Act No. 115 of 1984), nor to

(e) groep van een werkgewer en een of meer werkgewersorganisasie, of

(f) groep werkgewers en een of meer werkgewersorganisasies.

aan die een kant en enige-

(g) groep werknemers;

(h) vakvereniging;

(i) groep vakverenigings,

(j) groep van werknemers en een of meer vakverenigings,

aan die ander kant,

ten aansien van 'n boerderybedrywighed;

(f) deur in subartikel (1) na die omskrywing van "perseel" die volgende omskrywing in te voeg

"'plaas', ook varswater en seewater vir sover boerderybedrywighede daan of daarop beoefen word."

(g) deur in subartikel (1) na die omskrywing van "regspraktisyn" die volgende omskrywing in te voeg

"'regelgeskiede', geskiede wat uit 'n ooreenkoms of arbeidskode voortspruit ten aansien van boerderybedrywighede en die onblikke diensbeëindiging van 'n werknemer in diens in verband met boerderybedrywighede."

(h) deur in subartikel (1) na die omskrywing van "skeersregel" die volgende omskrywing in te voeg

"'spesiale arbeidshof', 'n hof ingestel by artikel 17E.""
the performance of work in a charitable institution for which the persons performing it receive no remuneration, nor to persons who teach, educate or train other persons at any university, technikon, college, school or other educational institution maintained wholly or partly from public funds"


3. Section 17D of the principal Act is hereby amended by the insertion of the following paragraphs after paragraph (a)(A) of subsection (11)

"(a(b) to make a determination in respect of a matter referred to it in terms of section 17E (2) (a) (iii),

(aC) to consider an application in terms of section 17D (1A) and to make an order which the industrial court deems to be fair under the circumstances."

Amendment of section 17D of Act 28 of 1956, as inserted by section 5 of Act 9 of 1991

4. Section 17D of the principal Act is hereby amended by the insertion of the following subsection after subsection (1)

"(1A) Notwithstanding any provision of this Act, an employer or employee who is engaged in farming activities, may apply to the industrial court, for an explanatory order that a strike or lock-out shall be unacceptable for a specified period where the strike or lock-out—

(a) has caused or is liable to cause serious damage to the property of an employer or endanger or is liable to endanger the health and safety of persons,

(b) could reasonably lead to the destruction of an employer’s business or the viability of such a business, unless the strike or lock-out is functional to the collective bargaining process,

(c) is conducted in a violent manner, or is accompanied by threats of violence, or

(d) is or shall not be in accordance with a non-strike or non-lock-out agreement or labour code."

Insertion of section 17E in Act 28 of 1956

5. The following section is hereby inserted in the principal Act after section 17D

"Establishment and functions of special labour court.

17E. (1) (a) A special labour court can by notice in the Gazette be established by the Minister and shall consist of persons
who, in the opinion of the Minister, have experience of the administration of justice or skill in any matter which may be considered by the special labour court and can also be members of the industrial court.

(b) Members of the special labour court shall be appointed on the conditions determined by the Minister.

(c) The registrar of the special labour court shall be appointed by the Minister.

(d) A special labour court shall have jurisdiction in the magisterial district determined by the Minister in the Gazette.

(e) The functions of the special labour court shall be performed by the persons appointed in terms of paragraph (a).

(f) (i) Subject to the provisions of subparagraph (h), the proceedings in a special labour court shall take place in open court.

(ii) A special labour court may in the interest of the administration of justice or of good order or of public morals or at the request of the parties to the proceedings for reasons considered sufficient by the special labour court, order that the proceedings shall be held behind closed doors or that specified persons shall not be present thereat.

If any person present at the proceedings of a special labour court disturbs the order of the court, the special labour court may order that such person be removed and detained in custody until the court adjourns, or the special labour court may, if in its opinion order cannot be otherwise maintained, order that the court room be cleared and that the public shall not be present at the proceedings.

(g) If evidence is given in a language with which one of the parties is in the opinion of the special labour court not sufficiently conversant, a competent interpreter may be called by the special labour court to interpret that evidence into a language with which that party appears to be sufficiently conversant, irrespective of whether the language in which the evidence is given is one of the official languages.

(h) When by reason of absence or incapacity a presiding officer of the special labour court is unable to complete the hearing of a dispute, the hearing of the dispute shall be commenced de novo before another presiding officer.

persones wat na die oordeel van die Minister ondervinding van die regspleging het of bedrewes is in 'n aangeleentheid wat deur die spesiale arbeidshof oorweeg mag word en kan ook lede van die nywerheidshof wees.

(b) Lede van die spesiale arbeidshof word aangestel op die voorwaardes wat die Minister bepaal.

(c) Die griffier van die spesiale arbeidshof word deur die Minister aangestel.

(d) 'n Spesiale arbeidshof sal juisdiksie hé in die landdrosdistrik waar die Minister by kennisgewing in die Staatskoerant bepaal.

(e) Die werksaamhede van die spesiale arbeidshof word vermy deur die persone kragtens paragraaf (a) aangestel.

(f) (i) Behoudens die bepalinge van subparagraaf (ii) vind die vergininge in 'n spesiale arbeidshof in die opc hof plaas.

(ii) 'n Spesiale arbeidshof kan in belang van die regspleging of die goeie orde of op versoek van die partye by die vergininge om redes wat die spesiale arbeidshof voldoende ag, gelas dat die vergininge later geslote deur moet plaasvind of dat bepaalde persone nie daardie aanwezig mag wees nie.

(iii) Indien iemand wat by die vergininge van 'n spesiale arbeidshof aanweeg is, die orde van die hof versteur, kan die spesiale arbeidshof gelaas dat so iemand verwyder en in bewaring aangehou word totdat die hof verder, of kan die spesiale arbeidshof, indien na sy oordeel die orde nie anders gehandhaal kan word nie, gelaas dat die hofaal ontuing word en dat die publiek nie by die vergininge aanwezig mag wees nie.

(g) Indien getuenis afgeë word in 'n taal waarmee een van die partye na die mening van die spesiale arbeidshof nie genoegsaam vertrou nie, kan die spesiale arbeidshof 'n bevoegde toek introop om die getuenis te vertolk in 'n taal waarmee daardie party genoegsaam vertrou blyk te wees, ongeag of die taal waarin die getuenis afgeë word een van die amptelike tale is.

(h) Wanneer die voorsittende beampte van die spesiale arbeidshof weens afwesigheid of onvermoe nie in staat is om die verhoor van 'n geskikte te voltooi nie, moet die verhoor van die geskikte de novo voor 'n ander voorsittende beampte 'n aanvang neem.
(j) The messenger of the court appointed under the Magistrates' Courts Act, 1944 (Act No. 32 of 1944) for the magistrates' court of a district, shall act as messenger of the court for a special labour court in that part of the said district falling within the area of jurisdiction of that court.

(2) (a) The special labour court—

(i) may, at the request of an employer or employee engaged in farming activities, give a hearing to a dispute of rights;

(ii) shall not be a court of record but the presiding officer shall take minutes or cause minutes to be taken of the judgment or award and sign it;

(iii) may at any time refer a matter submitted to it to the industrial court for a decision;

(iv) may only hear cases referred to it within 180 days from the date on which the dispute commenced or ceased;

(v) may not order reinstatement in the event of unfair dismissal, but allow compensation at a rate of two weeks' wages for every completed year of employment with the employer concerned to a maximum of 30 weeks;

(vi) may in the case of disputes of rights, other than an unfair dismissal, make such an order which the court under the circumstances may deem to be fair.

(b) (i) No person may represent another in the special labour court.

(ii) If the presiding officer of the special labour court is of the opinion that justice shall not be done without representation, he shall refer the matter to the industrial court in terms of paragraph (a) (iii).

(c) A judgment or an award of the special labour court shall be final and there shall be no right of appeal.

(d) The special labour court cannot make any order for costs.

(e) The Minister may, on advice of the Rules Board as contemplated in section 17 (22) (a), make rules for the special labour court in accordance with section 17 (22) (c) (i), (ii), (iii), (iv), (vii) and (ix) and (d).
(3) (a) Subject to the provisions of this section, the rules of the law of evidence shall not apply in respect of the proceedings in a special labour court, and a special labour court may ascertain any relevant fact in such manner as it may deem fit.

(b) Evidence to prove or disprove any fact in issue, may be submitted in writing or orally.

(c) A party shall not question or cross-examine any other party to the proceedings in question or a witness called by the latter party, but the presiding officer shall proceed inquisitorially to ascertain the relevant facts, and to that end he may question any party or witness at any stage of the proceedings. Provided that the presiding officer may in his discretion permit any party to put a question to any other party or any witness.

(4) (a) Subject to the provisions of paragraph (b), a party may call one or more witnesses to prove his side of the dispute.

(b) The provisions of paragraph (a) shall not affect a special labour court's power to decide that sufficient evidence has been adduced on which a decision can be arrived at, and to order that no further evidence shall be adduced.

(5) No person shall testify or be questioned in a special labour court unless the prescribed oath has been administered to him or the prescribed affirmation has been accepted from him by the presiding officer or by the registrar of the special labour court, or any person acting in his place, in the presence of that presiding officer, or, if the person concerned is to give his evidence through an interpreter, by the presiding officer through the interpreter.

(6) (a) Any person may at any time, whether before or during the hearing of his action, withdraw his application with the consent of the special labour court and on such conditions as the special labour court may determine, whereupon the proceedings shall be ceased.

(b) If proceedings are ceased as contemplated in paragraph (a), an applicant may bring a fresh action with the consent of the special labour court.

(3) (a) Behoudens die bepaling van hierdie artikel geld die reëls van die bewyse reg nie ten opsigte van die verrigtinge in ’n speciale arbeidshof nie, en kan ’n spesiale arbeidshof hom van enige ter-saaklike feit vergewis op die wyse wat hy goed ag.

(b) Getuie om ’n feit in geskied te bewys of te weerle, kan skriflik of mondeling aangebied word.

(c) ’n Party mag nie ’n ander party by die betrokke verringinge of ’n getuie deur laasgenoemde party gerep, ondervra of kruisverhoor nie, maar die voorsittende beampte moet inkwisitoriaal te werk gaan om dié tersaaklike feite te bepaal, en vir dié doel kan hy enige party of getuie op enige stadium van die verringinge ondervra. Met dien verstande dat dié voorsittende beampte na goeddunke ’n party kan toelaat om ’n vraag aan ’n ander party of enige getuie te stel.

(4) (a) Behoudens die bepaling van paragraaf (b) kan ’n party een of meer getuies roep om sy kant van die geskied te bewys.

(b) Die bepaling van paragraaf (a) raak nie die bevoegdheid van ’n spesiale arbeidshof om te beslis dat voldoende getuie graver is waarop tot ’n beslissing geraak kan word, en om te gelas dat geen verdere getuieis aan- gebied moet word nie.

(5) Niemand mag in ’n spesiale arbeidshof getuie afle of ondervra word nie tensy hy die voorgeskrewe eed opgely of die voorgeskrewe bevestiging van hom afgeneem is deur die voorsittende beampte of deur die grifher van die spe- siale arbeidshof, of iemand wat in sy plek optree, in die teenwoordigheid van die voorsittende beampte, of, indien die betrokke persoon sy getuieis deur ’n tolk gaan afle, deur die voorsittende beampte deur die tolk.

(6) (a) ’n Persoon mag te eniger tyd, hetse voor of gedurende die verhoor van sy aksie, met die instemming van die spe- siale arbeidshof en op die voorwaardes wat die spesiale arbeidshof bepaal, sy aansoek terugtrek, waarna die verra- tinge beëindig word.

(b) Indien verringinge beëindig word skops in paragraaf (a) bedoel, kan ’n aansoeker met die toestemming van die spesiale arbeidshof opnuut ’n aksie instel.
(7) (a) A special labour court may at any time before determination amend any document in connection with a case. Provided that no amendment shall be made if any party other than the party applying for the amendment may be prejudiced thereby in his case.

(b) The amendment may be made on such conditions as the special labour court may deem reasonable.

(c) In documents before the special labour court the name of any person or place as commonly known may be employed, and the special labour court may, on application, at any time before or after determination substitute the correct name for that name.

(8) (a) If a person, upon a document having been served on him—

(i) admits liability and consent to determination in writing, or

(ii) fails to appear before the special labour court on the trial date or on any date to which the proceedings have been postponed,

the special labour court may, on application by the applicant, make a determination.

(b) If an applicant fails to appear before the special labour court on the trial date or on any other date to which the proceedings have been postponed, the special labour court may, on application by the respondent—

(i) dismiss the applicant’s claim. Provided that the applicant may again institute an action for that claim with the consent of the special labour court, and

(ii) with regard to a counterclaim, make a determination.

(9) The special labour court may, upon application by any person affected thereby or, in a case contemplated in paragraph (c), suo motu—

(a) rescind or vary any determination made it in the absence of the person in respect of whom the determination was made;

(b) rescind or vary any determination made which was void ab origine or was obtained by fraud or as a result of a mistake common to the parties;

(c) correct patent errors in any determination.

(7) (a) 'n Spesiale arbeidsdor kan te enger tyd voor vaststelling 'n dokument in verband met 'n aksie wysig. Met dien verstande dat geen wysiging aangebring mag word nie indien 'n ander party as die party wat die wysiging aanvra in sy saak daardeur benadeel kan word.

(b) Die wysiging kan aangebring word op die voorwaardes wat die spesiale arbeidsdor billik ag.

(c) In stukke voor die spesiale arbeidsdor kan die benaming van 'n persoon of plek soos hy of dit algemeen bekend staan, gebruik word, en die spesiale arbeidsdor kan, op aansoek, daardie benaming te enger tyd voor of na vaststelling deur die korrekte benaming vervang.

(8) (a) Indien 'n persoon, nadat 'n dokument aan hom beteken is—

(i) skriflik aanspreeklikheid erken en toestemming tot vaststelling verleen, of

(ii) versuim om op die verhoordatum, of op enige datum waartoe die verrigtinge verdaag is, voor die spesiale arbeidsdor te versyn,

kan die spesiale arbeidsdor, op aansoek van die verkonsipant, daar vorm van die spesiale arbeidsdor een vaststelling maak.

(b) Indien 'n aansoeker versuim om op die verhoordatum of enige datum waartoe die verrigtinge verdaag is, voor die spesiale arbeidsdor te versyn, kan die spesiale arbeidsdor op aansoek van die respondent—

(i) die aansoeker se eis van die hand wys. Met dien verstande dat die aansoeker weer 'n aksie vir daardie eis met die toestemming van die spesiale arbeidsdor kan instel; en

(a) met betrekking tot 'n teenoeis, 'n vaststelling maak.

(9) Die spesiale arbeidsdor kan, op aansoek van enige persoon wat daardeur geraak word of, in 'n geval in paragraaf (c) bedoel, suo motu—

(a) 'n vaststelling deur hom gemaak in die afwesigheid van die persoon ten opsigte van wie die vaststelling gemaak is, nie verklare of wysig.

(b) 'n vaststelling wat gemaak is en wat ab origine netig is of wat deur bedrog of as gevolg van 'n ge- mene dwaling deur die partye verkry is, nie verklare of wysig,

(c) klaarblyklike foute in 'n vaststelling regstel.
(10) (a) When a special labour court has made any determination for the payment of money or for the payment of money in instalments, that determination, in the case of failure to pay the money within 10 days, or that order, in the case of failure to pay an instalment at the time and in the manner determined by the special labour court, shall be enforceable by execution against the movable property and, if insufficient movable property is found to satisfy the determination of the special labour court on good cause shown so orders, against the immovable property of the party against whom such determination has been made.

(b) Upon failure to pay an instalment in accordance with a determination, execution may be levied in respect of the whole of the judgement debt and costs then still unpaid, unless the special labour court, on application by the party that is liable, orders otherwise.

(11) The provisions of section 67 of the Magistrates’ Courts Act, 1944 (Act No. 32 of 1944), shall apply mutatis mutandis in respect of a warrant of execution in terms of this section.

(12) Any person against whom a special labour court has made a determination and who has not satisfied in full to that determination, shall, if he has changed his place of residence, business or employment, within 14 days from the date of every such change notify the other party fully and correctly in writing of his new place of residence, business or employment.

(13) (a) If a special labour court has made a determination for the payment of a sum of money and the registrar of the special labour court is satisfied that such determination has remained unsatisfied that such determination has remained unsatisfied after the applicant has acted in terms of all the provisions of this section available to him, the registrar of the special labour court shall, upon the written application of the applicant accompanied by an affidavit specifying the amount still owing under the determination and how that amount is arrived at, transmit a certified copy of that determination, together with the affidavit, to the clerk of the magistrate’s court of the district in which the respondent resides, carries on business or is employed, or, if the respondent is a juristic person, of the district in which its registered office or main place of business is situated.

(10) (a) Wanneer ‘n spesiale arbeidshof ‘n vaststelling maak vir die betaling van geld of vir die betaling van geld in paaemente, kan die vaststelling, in die geval van versuim om die geld binne 10 dae te betaal, of die bevel, in die geval van versuim om ‘n paaement te betaal op die tyd en wyse deur die spesiale arbeidshof bepaal, by eksekusie afgedwing word teen die roerende goed en, indien onvoldoende roerende goed gevind word ter voldoening van die vaststelling of die spesiale arbeidshof om ‘n gegrondrede rede aangevoer aldus geelaas, teen die onroerende goed van die party teen wie die vaststelling gemaak is.

(b) By versuim om ‘n paaement ooreenkomslyn ‘n vaststelling te betaal, kan tenuitvoerlegging geskied ten opsigte van die hele vonnisstuk en die koste wat dan nog betaalbaar is, tensy die spesiale arbeidshof, op aansoek van die party wat aanspreeklik is, anders gelas.

(11) Die bepaling van artikel 67 van die Wet op Landdroshove, 1944 (Wet No. 32 van 1944), geld mutatis mutandis ten opsigte van ‘n lasbref tot eksekusie ingevolge hierdie artikel.

(12) Iemand teen wie ‘n spesiale arbeidshof ‘n vaststelling gemaak het en wat nie ten volle daaraan voldoen het nie, moet, indien hy van woon-, besighed- of werkplek verander het, binne 14 dae vanaf die datum van elke sodanige verandering die ander party skriftelik, volledig en juist van sy nuwe woon-, besighede- of werkplek in kennis stel.

(13) (a) Indien ‘n spesiale arbeidshof ‘n vaststelling gemaak het vir die betaling van ‘n bedrag geld en die griffer van die spesiale arbeidshof oortuig is dat daardie vaststelling onvoldaan gebly het nadat die aansoeker ingevolge al die bepaleings van hierdie artikel wat tot sy beskikking is, opgetree het, moet die griffer van die spesiale arbeidshof op die skriftelike aansoek van die aansoeker, wat vergesel moet gaan van ‘n beëdigde verklaring waarvan uiteengesit word wat die bedrag is wat nog kragtens die vaststelling verskuldig is en hoe dit bereken word, ‘n gewaarmerkte afskrif van daardie vaststelling, gesame met daardie verklaring, aan die klerk van die landdroshof van die distrik waarin die respondent woon, besigheid of in diens is, of, indien die respondent ‘n regpersoon is, van die distrik waarin sy geregistreerde kantoor of hoofbesigheidsplek is, stuur.
Amendment of section 31A of Act 20 of 1956, as inserted by section 3 of Act 81 of 1984

5. Section 31A of the principal Act is hereby amended by the substitution for the word following sub-paragraph (vi) of paragraph (b) of subsection (1) of the following words

"on the other hand, shall be enforceable in any court, including the industrial court but excluding the special labour court"

6. Section 35 of the principal Act is hereby amended by the addition to subsection (1) of the following words

"Provided that in the case of persons engaged in farming activities, the dispute may be submitted directly by the applicant to the special labour court."

Amendment of section 42 of Act 28 of 1956, as amended by section 14 of Act 83 of 1988

7. Section 42 of the principal Act is hereby amended by the insertion of the following subsection after subsection (1)

"(1A) (a) Where a report as referred to in subsection (1) relates to a dispute concerning an unfair labour practice between parties engaged in a farming activity, a copy thereof shall also be submitted to the registrar of the industrial court.

(b) A member of the Industrial Court to whom the report, referred to in paragraph (a), is submitted, can whether the conciliation board has been discharged or not and notwithstanding any other provision of this Act, refer the dispute concerning an unfair labour practice between the parties engaged in a farming activity back to the conciliation board on such conditions as such a member may deem fit.

(c) If a dispute is referred back to a conciliation board, referred to in paragraph (b), the chairman of the conciliation board shall endeavour to expedite the settling of the dispute by agreement between the parties.

(d) If a dispute referred to in this section, which was referred back to the conciliation board and according to a certificate, issued finally for this purpose by the chairman of the conciliation board, can not be settled, the industrial court may determine the dispute in terms of section 46 (9) (c). Provided that no determination can be made in favour of a party who did not continuously attended the meetings of the conciliation board."

Insertion of section 51B in Act 28 of 1956

8. The following section is hereby inserted in the principal Act after section 51A

"Labour codes

51B. (1) The National Manpower Commission may submit proposals regarding fair or unfair labour practices or subject to the provisions of section 65, strikes or lockouts in respect of farming activities in a particular area in the form of a labour code to the Minister and request that the labour code referred to, be dealt with in accordance with subsection (2)."


6. Artikel 35 van die Hoofwet word hierby gewysig deur na subartikel (1) die volgende woorde by te voeg

"Met dien verstande dat in die geval van persone wat by boerderybedrywighede betrokke is, kan die geskik direk deur die aanwender na die spesiale arbeidsd Hof verwys word."

Wysiging van artikel 42 van Wet 28 van 1956, soos gewysig deur artikel 14 van Wet 83 van 1988

7. Artikel 42 van die Hoofwet word hierby gewysig deur die volgende subartikel na subartikel (1) in te voeg

"(1A) (e) Waar 'n verslag soos bedoel in subartikel (1) (b) betrekking het op 'n geskik aangande 'n onbiline arbeidspantryk tussen partye betrokke by 'n boerderybedrywighdigheid, moet 'n afskrif daarvan ook aan die griffier van die nywerheidshof gestuur word.

(b) 'n Lid van die nywerheidshof aan wie die verslag soos in paragraaf (a) bedoel voorgelê word, kan hetsy die versoeningsraad ontslaan is of nie en ongeag enige ander bepalings van die wet, die geskik aangande 'n onbiline arbeidspantryk tussen partye betrokke by 'n boerderybedrywighdigheid na die versoeningsraad terugverwys op sodanige voorwaardes as wat so 'n lid billik maak.

(c) Indien 'n geskik na die versoeningsraad terugverwys word, soos bedoel in paragraaf (d), moet die voorstuur van die versoeningsraad die besluit van die geskik deur onenkomst tussen die partye probeer bevorder.

(d) Indien 'n geskik soos bedoel in hierdie artikel wat na die versoeningsraad terugverwys is en volgens 'n sertifikaat, wat vir hierdie doel final is, deur die voorstuur van die versoeningsraad uitgekeek is, nie besleg kan word nie, kan die nywerheidshof die geskik ingevolge artikel 46 (9) (c) vasteel. Met dien verstande dat geen vaststelling gemaak kan word ten gunste van 'n party wat nie deurlopend by die versoeningsraadvergadering aanwezig was nie."

Invoeging van artikel 51B in Wet 28 van 1956

8. Die volgende artikel word hierby in die Hoofwet na artikel 51A ingevoeg

"Arbeidskodes

51B. (1) Die Nasionale Mannedrakommissie kan voorstelle aangaande bilike of onbiline arbeidspantryke of behoudens die bepaling van artikel 65, stakings of uitsluitings ten opsigte van boerderybedrywighdigheid in 'n bepaalde gebied in die vorm van 'n arbeidskode aan die Minister voorloer en versoek dat ooreenkomsstig subartikel (2) met die bedoelde arbeidskode gehandel word."

Arbeidskodes
(2) After receipt of a labour code in terms of subsection (1), the Minister may—

(a) publish such labour code by way of a notice in the Gazette in which all interested persons are requested to submit within a fixed period written comment to the Director-General; and

(b) taking into consideration the comment received in terms of paragraph (a) and if he deems it expedient to do so, publish a notice in the Gazette which contains the provisions of that labour code.

(3) (a) Subject to the provisions of subsection (2), the Minister may, at the request of the National Manpower Commission, from time to time by notice in the Gazette—

(i) as from a date cancel or suspend for a period, or

(ii) as from a date specified in that notice, amend or supersede, as he may deem fit, any one or more or all of the provisions of a labour code which has been published in terms of subsection (2).

(b) Subject to the provisions of paragraph (a), the provisions of a labour code which has been published in terms of subsection (2), shall remain in force until they are cancelled or superseded by a new labour code.

(4) Notwithstanding the provisions of subsection (1), any—

(a) employer,

(b) group of employers;

(c) employers' organisation;

(d) group of employers' organisations;

(e) group of one employer and one or more employers' organisations, or

(f) group of employers and one or more employers' organisations,

on the one hand and any—

(g) group of employees;

(h) trade union,

(i) group of trade unions, or

(j) group of employees and one or more trade unions

and which are representative of the employees of employers referred to in paragraphs (a), (b), (c), (d), (e) or (f) or which represent a certain interest there, on the other hand, which are engaged in farming activities and area, may at any time submit to the Minister proposals in regard to fair or unfair actions in farming activities or subject to the provisions of section 65, strikes or lock-outs in respect of farming activities in a particular area.

(2) Nadat hy 'n arbeidskode kragtens sub- artikel (1) ontvang het, kan die Minister—

(a) sodanige arbeidskode by wyse van 'n kennis- gewing in die Staatskoerant laat publiseer waarmee alle belangstellende persone versoek word om binne 'n bepaalde tydperk kommen- taar skriftelik by die Direkteur-generaal in die dien, en

(b) met inagmenging van die kommentaar wat ingevolge paragraaf (a) ontvang is, en indien hy dit raadsaam ag, 'n kennisgewing in die Staatskoerant laat publiseer wat die bepa- linge van daardie arbeidskode uiteenstyt.

(3) (a) Behoudens die bepalings van sub- artikel (2), kan die Minister op versoek van die Na- sionale Mannekrakommissie van tyd tot tyd by kennisgewing in die Staatskoerant een of meer of al die bepalings van 'n arbeidskode wat ingevolge subartikel (2) gepubliseer is—

(i) vanaf 'n datum intrek of wr 'n tydperk op- skort; of

(ii) vanaf 'n datum in daardie kennisgewing vermeld, wysig of vervang soos hy goedvind.

(b) Behoudens die bepalings van para- graaf (a), bly die bepalings van 'n arbeidskode wat ingevolge subartikel (2) gepubliseer is van krag totdat hulle vervang word deur 'n nuwe arbeidskode.

(4) Ondanks die bepalings van subartikel (1), kan enige—

(a) werkgever,

(b) groep werkgewers,

(c) werkgewersorganisasie;

(d) werkgewersorganisasies;

(e) groep van een werkgever en een of meer werkgewersorganisasies; of

(f) groep werkgewers en een of meer werkgew- wersorganisasies,

aan die een kant en enige—

(g) groep werknemers;

(h) vakvereniging;

(i) groep vakverenigings; of

(j) groep van werknemers en een of meer vak- verenigings

en wat verteenwoordigend is van die werk- nemers van werkgewers soos bedoel in paragrawe (a), (b), (c), (d), (e) of (f) of wat 'n bepaalde belang aldaar verteenwoordig, aan die anderkant, wat in boerderybedrywighede en 'n gebied betrokke is, te eniger tyd voorstelle aangaande blikke of onblik- kte optrede in boerderybedrywighede of behoudens die bepalings van artikel 65, stakings of uitsluitings- ten opsigt van boerderybedrywighede in 'n be- paalde gebied in die vorm van 'n arbeidskode of
Farm labour document out

Political Correspondent

MAJOR changes to the rights of agricultural workers will be proposed in a draft bill published by the government today.

The working document, which will appear in the Government Gazette and which arose out of the National Manpower Commission's report, entails:

- The extension of the Labour Relations Act to the agricultural sector.
- The establishment of a special Labour Court.
- Mechanisms to create labour codes for the agricultural sector.

A government spokesman said it was hoped that a consensus bill reflecting the concerns of the government, Cosatu, the SA Agricultural Union and other interested parties would be tabled in Parliament next year.
Comment invited on Labour Act

PRETORIA — A working document on the extension of the Labour Relations Act to the agricultural sector has been published in the Government Gazette and comments have been invited.

Manpower Minister Leon Wessels said the document flowed from a report by the National Manpower Commission recommending the extension of the Labour Relations Act to the agricultural sector.

It entailed the extension of the Act to agriculture, the establishment of a special labour court, and mechanisms to create labour codes for the agricultural sector.

"Based on the comments received from interest groups on the working document, as well as further deliberations in this regard, the government will decide whether existing legislation should be extended or alternatively whether a single act to regulate labour relations in agriculture should be promulgated," Wessels said.

All interested persons and organisations were invited to submit comments on the working document before February 26 1993, to the Department of Manpower, Private Bag X117, Pretoria 0001.

Copies of the working document are obtainable from the government printer — Sapa 31/1/92.
Farm labour: Govt committed

MANPOWER minister Mr Leon Wessels yesterday reiterated the government's commitment to extending the Basic Conditions of Employment Act to farmworkers by March 1.

He was responding to a DP statement on State President FW de Klerk’s offer to meet farmers’ unions to discuss the controversy over the extension of labour legislation to agriculture.

DP MPs Mr Errol Moorcroft and Mr Robin Carlisle said Mr De Klerk’s intervention should not lead to further delays in the process.

Mr De Klerk’s announcement on Wednesday followed warnings by the South African Agricultural Union that farmers would not implement labour legislation which they did not support.

Cosatu spokesman Mr Neil Colman said the union hoped that the government would not bow to pressure from minority interests.

The proposed extension of labour legislation to agriculture has been welcomed by the Human Resources Committee of the deciduous fruit industry. It was reported yesterday that Chairman Mr David Gant said it would bring an end to uncertainty—Sapa
New labour deal with old problems

The new deal for public servants and domestic and farm workers has been greeted as a major breakthrough. But opposition from the agricultural and domestic workers lobby could put a spanner in the works.

By FERIAL HAFFAJEE

• An unusually wide definition of essential services which effectively eviscerates the right to strike.

• The criminalisation of the right to strike.

• The requirement that trade unions give 20 days notice before a strike while employers can get a strike order in 48 hours.

Cosatu's national general secretary Sam Shikwasa said strike dates have been negotiated in the past with various manpower ministers and that they have given by with no strike.

"Minister Wesseels is convinced that the act should go through and we don't want to prejudge him," says Shikwasa. "We want him to prove he's not a fascist.

Other features of the agreement include a resolution to form a high-powered committee which will work at implementing all the recommendations made by the recent International Labour Organisation Committee to South Africa.

In line with Cosatu's strategy to furnish a key role for itself in the labour market two task forces have been set up to determine policy on training and the industrial court. The task forces are appointed by consensus and will include key union policy-makers whose appointment will only be rubber-stamped by the ministers.

The Labour Ministers, the foundation stone of this week's agreement, was negotiated by employer bodies, unions and the state, the latest accord in the dispute. Employers and politicians welcomed the accord but said it was essential that employers and other union federations be included in negotiations.
Farmers protest against extension of labour laws

PRETORIA—Organised agriculture told President F W De Klerk yesterday that the application of existing labour laws to its industry was unacceptable.

In a statement after a meeting between the SA Agricultural Union (SAAU), Agriculture Minister Kraai van Niekerk and Manpower Minister Leon Wessels, De Klerk said consensus reached would be taken further in a meeting on Friday between Wessels and the SAAU.

De Klerk said the discussions were constructive but he gave no details of the consensus.

The SAAU delegation said the industry had been appalled to learn that Wessels had reached agreement unilaterally with Cosatun to apply key legislation to agriculture. The lack of consultation was deplored, SAAU president Boet Fourie said.

He told the meeting the SAAU was not opposed in principle to labour legislation being applied to agriculture provided it did not have a disruptive influence.

A prerequisite was that it should accommodate the unique conditions in agriculture, which current legislation failed to do.

Dispute resolution on farms had to be at the lowest possible level—between farm-er and worker.

Farmers, the meeting was told, saw what was happening in other sectors of the economy—strikes, stayaways and mass actions—and feared farm workers could be manipulated for political purposes.

Transvaal Agriculture Union president Dries Bruwer told the meeting unemploy-ment, urbansation and squatting problems would all be aggravated if current legisla-tion was imposed on the industry.

Meanwhile, Sapa reports from Cape Town that the Black Sash said it was encouraged that the proposed legislative amendments resulted from negotiations between government and credible labour representatives.

Black Sash national president Jenny de Tolly said yesterday minimum conditions of employment would place a check on exploitative labour practices in the agricultural and domestic sectors.

However, extensive education and monitor-ing were necessary if labour laws for farm and domestic workers were to be effective, she said.
Farmworkers' breakthrough

Important law reforms back on track

KEY law reforms for farmworkers are again on track.

The South African Agricultural Union has approved a government-brokered plan to extend labour laws to agriculture next year.

This breakthrough towards workplace protection for about 1.3 million workers on farms followed the personal intervention of President De Klerk on Tuesday.

Guarantees that the laws would not be passed summarily, but would be placed "back in the negotiation process" rekindled qualified SAAU support for the reforms.

"Discussion and negotiation regarding the establishment of adapted and practically applicable labour legislation for agriculture will now be resumed," SAAU president Mr. Boet Faurie said in a statement.

Welcoming the agreement, Manpower Minister Leon Wessels said it had cleared the way for SAAU to become involved in a comprehensive labour deal for agriculture next year.

This was made possible because the parties agreed to a process whereby labour laws based on the principles of free association and collective bargaining would be submitted to parliament early in 1993.

As a first step, draft laws extending the Labour Relations and Wage Acts to agriculture would be published for comment before December 31.

Interested parties, including the SAAU, would then be given two months to comment on the proposed amendments submitted by the Department of Manpower.

"The 'bona fide' negotiations between the interest groups will be able to continue until March 31. The Cabinet will then decide which legislation is to be put to parliament.

"A comprehensive labour dispensation for agriculture will consequently be enacted during the next parliamentary sitting, and implemented soon after," Mr. Wessels said.

Tuesday's agreement followed vehement SAAU opposition to the government's recent announcement that farmworkers would be drawn into the scope of labour laws by the end of next year.

Mr. Wessels said he would be meeting the SAAU tomorrow as planned, thanks to the new momentum in the process of negotiations.

Mr. Faurie said if consensus was not reached by the March 31 cut-off date, the government would still pass legislation next year.

The SAAU had to agree to this, but it did not commit itself to the contents of this proposed legislation which, in principle, had to provide for negotiation and dispute-resolution at the lowest possible level.

The SAAU this week said it could reconsider meeting Mr. Wessels as scheduled, saying it had been excluded from the November 6 reform accord between the government and Cosatu — Sapa.
Farmers relent on labour laws

MANPOWER Minister Leon Wessels and the SA Agricultural Union have reached agreement on a process to legislate labour law for farm workers based on freedom of association and collective bargaining.

The agreement does not contradict Wessels' earlier deal with Cosatu over which the SAAU had lodged a strong protest.

Wessels said yesterday he was "overjoyed" and Cosatu welcomed the agreement which, it believed, would lead to the extension of the Wage Act and Labour Relations Act to farm workers.

The Manpower Department will publish a concept law for the extension of the two Acts to farm workers by the end of the year. All interested parties will have two months to comment and negotiations between those parties on the law may continue until the end of March, when Cabinet will decide whether the existing Acts will be extended or whether new legislation will be put to Parliament.

The only significant difference between this agreement and the Cosatu agreement is that the deadline for consultation is now the end instead of the beginning of March.

GERALD REILLY reports that SAAU president Boet Fourie said yesterday the union had been forced to agree to government passing "fair and appropriate" legislation if parties failed to reach consensus by March 31, but he warned this did not bind the SAAU to unqualified acceptance.
ANC ‘supports commission’

Political Staff

THE ANC has given its full support to Mr Justice Richard Goldstone’s call for his commission to be given the authority to investigate the functioning and operations of the SAP, UMKhonto weSizwe, Apila, the KwaZulu Police and certain security firms.

The government has said it is not opposed in principle to extending the commission’s investigative scope, but Constitutional Development Minister Mr Roelf Meyer said it would need to be clear what kind of powers and authority he would need.

Judge Goldstone was on a twoday visit to South Africa before returning to London to make the commission’s recommendations. He was in South Africa to brief the ANC on the work of the commission.

SADF admits using ex-Frelimo soldier

Political Staff

THE SADF admitted yesterday that it had “utilised” former FrelIMO soldier Mr Jaou Alberto Cuna before but only for the collection of information on smuggling of weapons and arms caches.

Mr Cuna claimed recently he had taken part in the shooting of a house full of residents near Durban in March or April this year.

He told Vrye Weekblad newspaper he had been employed by a policeman, but subsequent Goldstone Commission investigations have revealed that the hotel accommodation during a night in Maritzburg was paid for using a credit card linked to the Military Intelligence (MI) establishment.

The SADF said in a statement yesterday that it had utilised Mr Cuna in July-August last year.

“Mr Cuna’s allegations are being investigated by the Goldstone Commission and the SADF therefore cannot comment on the allegations,” it said.

Edith Askew, the MI’s deputy director of intelligence, had denied publishing his starting report which implicated MI in illegal activities.

Mr Justice Richard Goldstone yesterday declined to answer further questions about his starting report which implicated MI in illegal activities.

‘Secret files not being guarded’

Staff Report

THE remand of the secret files that the Goldstone Commission left behind at the Military Intelligence building before it was raided last Wednesday are not being guarded, according to commission secretary Mr Cuthbertson.

Mr Justice Richard Goldstone yesterday declined to answer further questions about his starting report which implicated MI in illegal activities.

SADF had lied when it said Barnard had never been in its employ

SADF had lied when it said Barnard had never been in its employ.

It was expected the cabinet would accede to Judge Goldstone’s plea to give his commission more powers, authority and cooperation to properly investigate all public and private security forces and armies inside and outside the country.

With international and domestic pressure mounting, the cabinet, a source said, wanted to find the best way of being seen to act while keeping political hands behind the fray.

Even within the government’s ranks there was protest at the Goldstone Commission’s findings.

Ambassador to Washington Mr Harry Schwarz said he was “furious and outraged” at the disclosures, he, said, had undermined the embassy’s hard work.

The United States administration has called for the prosecution of those involved in the exposed covert operations.

Meanwhile, Mr de Klerk and the cabinet face the National Party’s parliamentary caucus in Cape Town this morning.

Mr de Klerk, reeling under sharp attacks on his handling of the economy, will have to pronounce the caucus he is taking decision action on the MI row as well as on the corruption in the independent states which was uncovered last week.

Hopes that obstacles are being cleared to make way for negotiations gained ground yesterday when the ANC’s cabinet adopted a discussion document that opts for a five-stage process of change and possible power-sharing with the NP.

That means the ANC plan and the government’s proposals are now very similar and reinforces speculation that multi-party talks could resume soon.

The ANC's proposals included the formation of an ‘executive council’, as agreed at Codesa II, elections for a constituent assembly, the adoption of a new constitution and transformation of South Africa into a democracy.

Nixon set to receive millions

WASHINGTON — Former president Mr Richard Nixon is set to receive millions of dollars as compensation after a federal court ruled that he should be paid for the seizure of his personal papers and records by the FBI.

Mr Nixon challenged a court ruling that the documents and records, but lost.

He has continued to fight for compensation, which led to a ruling by Supreme Court that he be reimbursed.

‘R16m needed for returnees’

JOHANNESBURG — About R16 million is needed to help 40,000 exiles ready to return to South Africa, but the exiles committee has no money.

Repatriation has already cost R40 million, with 14,000 former exiles and 14,000 former exiles and people returning to South Africa.

The NCCR has assured the government of being interested in the repatriation.

Farmers and govt agree

JOHANNESBURG — Manpower Minister Mr Leon Wessels and the SA Agricultural Union (ASA) have reached an agreement on a process to legislate labour law for farm workers based on freedom of association and collective bargaining.

The agreement does not contradict Mr Wessels’ earlier deal with Cosatu.

Protest march: Bhutto arrested

RAWALPINDI, Pakistan — Police arrested the minister Ms Benazir Bhutto yesterday after she and supporters broke through police barricades to lead a banned anti-government protest.

About 500 police surrounded Ms Bhutto and took her into custody along with other politicians who once opposed but now support her bid to oust the government of Prime Minister Mr Nawaz Sharif.

Sapa-AP
Farmers agree on labour laws

PRETORIA — The South African Agricultural Union has agreed to a practical programme of negotiating and implementing labour laws for farm-workers next year, Manpower Ministry spokesman Mr Johan Smit said.

The agreement followed constructive and cordial talks between the farmers' union and the Minister of Manpower, Mr Leon Wessels, yesterday. — Sapa
Bringing Job Havoc
New Laws Could

Month's delay
in Labour Act

The extension of the Basic Conditions of Employment Act to farm workers has been postponed by 30 days to allow further talks on adjusting its application to agriculture.

The postponement follows government assurances last week that the South African Agricultural Union would have a fair say in drafting agricultural employment laws.

A Cosatu campaign co-ordinator said the union accepted the delay as it did not affect its November 6 accord with the government. — Sapa
Govt to publish Bill for domestic workers

PRETORIA — A draft Bill to adapt the Basic Conditions of Employment Act to cover domestic workers will be published this month for comment.

The Bill makes no provision for minimum wages. Manpower director-general Joel Fourie said incorrect impressions on the extension of labour laws to domestic workers had been created in the media.

Comment on the Bill can be submitted to the department before February 28.

Provisions in the draft include determination of maximum daily and weekly ordinary working hours, meal intervals, payment of overtime, work on Sundays and public holidays and sick and ordinary leave.

Fourie said a committee would be appointed on the issue of a minimum wage and settlement of disputes. Proposals would be submitted to Manpower Minister Leon Wessels before September 30.

An independent investigation into unemployment insurance and workmen's compensation for domestic workers would report during May.
ANC concerned about farm labour issue

THE ANC yesterday expressed concern that government had reopened the debate on the provision of basic conditions of employment to farm workers.

The ANC said the SA Agricultural Union (SAAU) had been less than impressive on the rights of farm workers, while other bodies like Unifraco and the Cane Growers' Association had welcomed the extension of the Basic Conditions of Employment Act to farm workers.

DIRK HARTFORD - The ANC said the SAAU should not erode minimum standards for farm workers because of pressure from sections of the farming community. The ANC said the SAAU should depart from its "unrealistic vision of employing "incomplete proposals" and a vision of agricultural labour relations that were more in line with the reality of farm work.

Bester Homes under provisional liquidation

Bester Homes has been placed in provisional liquidation after an application in the Pretoria Supreme Court by its major creditor, Absa.

This follows months of market speculation about the property developer's ability to meet its obligations.

Bester Homes issued shares for a capital of R200 Million held by JSE-listed Bester Investments, which was suspended by the exchange yesterday.

Executive chairman Theumus Bester said yesterday that the company would not pay interest-bearing loans amounted to about R130 Million.

Bester Homes owed Absa R68 Million through Trust Bank (R56 Million) and Volkskas (R12 Million). The shares were issued for another R50 Million, due on demand for sureties on behalf of companies in the Bester group, adding up to a total debt to Absa of R108 Million. Rolando and First National Bank are the other major creditors.

"The Bester Investments 1992 annual report stated that the group was already technically insolvent and a scheme of arrangement was being considered by its creditors," Bester said. As they were unable to reach an agreement, it was decided that the company would be placed in provisional liquidation.

An Absa spokesman said yesterday that the Bester group had paid interest on its debt until November 1991. "Most of its assets are non-income generating and the fear is that it could start to eat into its assets to service its debt," eroding security held by banks.

Bester said the group had stopped doing new business.

It was honouring existing obligations, including completion of two retirement homes in the Cape. It was likely that the liquidators would have to use some of the company's unsecured assets as security for a loan or to sell to fund completion of the developments, Bester said.

He was optimistic that a scheme of arrangement could be reached. "We valued our land holdings at R50 Million, but present market conditions are making it almost impossible to sell.

The return date was set for January 12. Bester Homes' end-February balance sheet put current assets at R200 Million against current liabilities and provisions of R190 Million - R142 Million for overdrafts, loans and acceptances.
Call for submissions

WRITTEN submissions on the Public Service Labour Relations Bill should be made to the Parliamentary Joint Committee on Home Affairs by the end of this month, the committee's chairman, Mr Patrick McKenzie, said yesterday. (166)

In a statement he said if possible 30 copies should be provided and all correspondence on the matter should be addressed to the Secretary to Parliament, PO Box 15, Cape Town, 8000.

9/12/72
Draft laws on domestic workers soon for Expedite 10, 12, 1994

By Charlotte James

Following a meeting with the SA Domestic Workers' Association and other groups yesterday, Minister of Manpower Leon Wessels will publish draft legislation on conditions of employment for domestic workers this month.

All interested parties will be welcome to comment on the legislation, which will not include suggestions on minimum wages.

Two working groups were also set up, one to investigate extending the Labour Relations Act to cover domestic workers and the other to look at minimum-wage regulations.

The labour relations working group plans to submit a report to Wessels in March, when legislation will be drafted and published for general comment.

The wage regulation group will submit a report in September, and any resulting legislation will also be published.

Other groups present at yesterday's meeting were the SA Women's Agricultural Union, the Federale Vroue Raad, the Women's Bureau, the National Council for Women and the Women's Legal Status Committee.

It was noted at the meeting that little comment had been received from workers.
A curate’s egg for civil servants

A DRAFT statute which covers civil servants was finally introduced into parliament last week, two years after the Labour Minute was signed.

Unfortunately, there are many factors which undermine any positive effects the Bill may have.

But two factors — the extension of the “unfair labour practice” jurisdiction and stop-order facilities — establish important basic rights. It is important that these features will now be a right instead of a privilege at the discretion of the director general of manpower.

This will allow unions in the public sector to establish their resource base and their ability to defend the rights and interests of their members.

The Bill intends “to regulate new labour relations in the public service, including collective bargaining at central and departmental levels and to provide the prevention and settlement of disputes between the state as employer, its employees and employee organisations”.

At present there is only a forum for consultation between the Commission for Administration and employee organisations on wage or salary matters and on the proposed legislation.

This is clearly unsatisfactory — the lack of proper collective bargaining rights and formal procedures for speedy dispute resolution were major contributory factors to the recent, lengthy hospital strikes.

While the Bill establishes a bargaining council at central level, it also presents a number of impediments to concerted bargaining.

For example, an employee organisation has to prove that it represents workers affected by a particular issue if it wishes to negotiate that matter in the council.

With 11 unions and staff associations presently recognised, the effect is that employee organisations would not be able to challenge or support each other unless an issue affected their members.

It is generally accepted that disclosure of information is crucial in the bargaining process. In the private sector, unions often have access to company annual reports or interim statements.

This enables them to challenge or accept the validity of company claims about their “ability to pay”.

In the Bill the definition of “classified information” is so broad that it can be used to withhold basic and necessary information from employee organisations.

There are at least five separate procedures in the Bill for resolving disputes depending on the categorisation of the dispute. It can be a collective dispute of right, an individual dispute of right, an unfair labour practice, a dispute of interest which has financial implications in an essential service, or a dispute of interest which has no financial implications in an essential service.

Problems arise where a dispute may simultaneously be a dispute of right and of interest, for example, when an employee is entitled to a certain benefit but also has an interest in maintaining it. Where the categorisation of a particular dispute is challenged (probably by the employer) the case could be thrown out on a legal technicality and the merits of the dispute would never be heard.

The Bill’s notice for resolution of disputes in a sector where their resolution or escalation has a direct impact on the lives of ordinary citizens is too short.

Strike action is permitted for public service employees, following elaborate procedures and requirements, including balloting and 20 days’ notice to the employer.

The employer, on the other hand, can interdict a strike on 48 hours’ notice. But even following these legal requirements to the letter does not indemnify “legal” strikers against dismissal.

In addition, failure to comply with the legal provisions makes the “guilty” parties criminally liable.

Criminal sanctions include a fine or imprisonment or both.

Strikes are also prohibited in “essential services” and the definition of these goes way beyond the International Labour Organisation (ILO) definition of “services whose interruption would endanger life, personal safety or health of the whole or part of the population.”

LUCI NYEMBE argues that the Public Service Labour Relations Bill gives with one hand and takes with the other implications to an essential service.

LUCI NYEMBE is a research officer at the Centre for Applied Legal Studies specialising in the public sector.
Unions object to deal

TRADE unions representing more than 1 million workers — including Fedsal, Fitu and Sacol — met Manpower Minister Leon Wesels yesterday to object to his agreement with Cosatu on farm, domestic and public workers.
New labour bill published

A BILL intended to revamp labour relations in the public service and to set up a formal bargaining forum for state employees was published yesterday.

According to a memorandum on the Public Service Labour Relations Bill, the measure will establish a Public Service Bargaining Council consisting of a central chamber and subsidiary chambers at departmental level.

The bill was the result of talks with groups including Cosatu, but agreement had not yet been reached.

The labour relations system it proposes are restricted to Public Service Act personnel — Sapa
Attacks warned

MASERU - The Lesotho government will not allow its territory to be used as a springboard for attacks against its neighbours.

It reserved the right to act in any manner it deemed fit to end the state of lawlessness on its border with South Africa.

In a statement in Maseru, the Lesotho government said certain elements were bent on engaging in cross-border activities, referring to a weekend attack by gunmen on a Pikesburg farm which left a 14-year-old teenager dead and prompted the SA Government to rush police reinforcements to the area.

- Sapa-Reuters-AP-AFP
RIGHT-WING THREATS OF REVENGE

GOVERNMENT handed a formal protest note to Transkei and stepped up diplomatic pressure on Lesotho yesterday as right-wingers threatened to take the law into their own hands and strike at Apla bases in the two countries.

The CP has vowed to take unilateral action against the alleged bases unless government implements strong measures against the PAC’s armed wing within a week.

The weekend slaying of a 14-year-old girl in Ficksburg, near the Lesotho border, has also prompted threats of arbitrary revenge attacks on blacks by right-wing extremists in the area.

While the CP has welcomed the deployment of policemen on the 200 farms along the SA border with Lesotho, it has urged that hot pursuit operations be authorised into the country “Mere statements of cooperation with the Lesotho police are not enough,” the CP said.

A Foreign Affairs spokesman said the “closest co-operation” was being received from Lesotho, where the girl’s killers fled.

Another source said the attack was probably launched from within SA, and not from bases in Lesotho, and that Minister Herman Kriel has informed Transkei and Zimbabwe as possible sites for Apla bases.

Foreign Affairs said the diplomatic protest to Transkei demanded strong action against guerrillas who attacked SA vehicles on the road between Transkei and South Africa.

Tonight, Ficksburg farmers, police, army and AWB officials plan to hold a meeting to discuss the spate of attacks against residents in the area. Ministers Kriel and Justice Minister Koos Coetsee, who is also the Free State leader of the NP, are expected to attend the meeting.

At the same time, Sapa reports the Lesotho government has called a special meeting to discuss the deteriorating security situation along the border.

Two more deaths occurred on a Free State farm yesterday, but police suspected the motive for the attack was robbery. Koos Ward, 70, and his 34-year-old daughter were both shot dead by an intruder on their farm yesterday.

Foreign Affairs and police spokesmen have expressed fear that right-wing action might upset delicate operations in cooperation with other governments, to stop the killings. “While channels between the governments of SA, Transkei and Lesotho remain open, we believe any unilateral action by groups will be unfortunate,” the Foreign Affairs spokesman said.

Government wished to decide on a joint strategy with Transkei to counter the attacks, but would first evaluate the homeland’s response to the protest note, he said.

Police spokesman Col Louis Botha said heightened security, including additional Internal Security Unit bases, permanent and mobile roadblocks, farm patrols and spot checks on vehicles, were being implemented. He said it was clear the perpetrators of incidents in the Border region were

Border raids

from Page 1

Closed number of right-wing commandos were moving into the border areas, he said.

Sapa reports that the Boere Weerstandsbeweging has warned its supporters to prepare for civil war. The organization said it had deployed a platoon of its military wing on the SA border with Transkei.

Van Tonder said the time had come for people to defend themselves. Urging the police and SADF to intervene before this happened, he insisted there were Apla bases in both Lesotho and Transkei, and that plans were being orchestrated to get farmers off their land.

Sapa reports that Transvaal Agricultural Union president Dries Bruwer said the union had confidential information that attacks on Free State and Cape farms could spread to the Transvaal at the weekend. He called on government to use the SADF to restore law and order.
Sacked Deputy Stands Safe in Race for"
While the provisions of the pathbreaking agreement between government and Cosatu on farm and domestic worker rights were generally expected, employers are concerned at the way in which the deal was done.

In particular, it appears that the National Manpower Commission (NMC) was bypassed — and taken by surprise — at Monday’s announcement of the agreement. It was signed exclusively — and suddenly — by new Manpower Minister Leon Wessels and Cosatu general secretary Jay Njolde last Friday.

Cosatu only recently announced, after a great deal of discussion, that it is to rejoin the tripartite NMC (labour, business and government), having pulled out in part because government ignored the NMC’s recommendations.

Aside from the SA Agricultural Union, other employers are wondering whether this will set the pattern and bypass them. Puzzlement is compounded by the fact that Cosatu has hardly any farmworker members — except those in agri-business, who are organised mainly through its Food & Agricultural Workers Union in the Natal sugar and western Cape fruit industries. The inherent difficulty in organising farm labourers is a separate issue.

A “shocked and extremely indignant” SAAU said the decision to extend basic labour rights to agriculture was taken “without any consultation with organised agriculture.” It said a meeting had been arranged with the Minister for next Friday to discuss an SAAU draft document (earlier sent to the Minister) outlining a separate labour Act for the sector. While much work had been done “to make the idea of practical labour legislation acceptable to farmers,” said SAAU manpower committee chairman Chris du Toit, “I now expect strong opposition to the labour laws.”

Indeed, observes labour consultant Duncan Innes, the worry is that SAAU, “which has dragged its feet on the matter,” may prevent the effective implementation of the new laws, which will be difficult to police in any event.

While welcoming the envisaged new legislation for “extending protective rights to millions of workers exploited in the past,” Innes hoped government would not renege or water down the agreement.

Its main provisions state that the Minister shall:

- Promulgate the Basic Conditions of Employment Amendment Act (BCEA) to take effect on March 1, 1993;
- Promulgate the Unemployment Insurance Amendment Act on January 1, 1993;
- Introduce in Parliament, with a view to passing it in the 1993 session, legislation to appropriately extend the Labour Relations Act (LRA) and Wage Act to agriculture and seek early Cabinet approval for this, and
- Before the end of the year, get his department to publish for comment the proposed legislation with due regard to the NMC’s recommendations.

Regarding the BCEA for domestic workers, the Manpower department will submit to the Minister, by the end of next March, draft legislation to be introduced into Parliament for passage not later than the second half of the year. It was further agreed that it is necessary to extend to domestic workers

Consideration is now given to extending the Wage Act to domestics as well. A committee will be set up by Manpower including Cosatu, Nactu and Saccola, together with the Justice Department in respect of dispute resolution procedures. It is hoped to enact this by the first session in 1994.

Extending unemployment and workmen’s compensation benefits to this sector is agreed in principle and is to be investigated. So will labour law in the homelands.

Manpower’s Wessels bold foray into the labour field

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Manpower’s Wessels bold foray into the labour field

resolution procedures. It is hoped to enact this by the first session in 1994.
Shock for organised agriculture

Labour deal extends rights to millions

AN AGREEMENT between government and Cosatu to extend basic labour rights to millions of previously unprotected workers was a major breakthrough for SA labour relations, Cosatu general secretary Jay Naidoo said yesterday.

Manpower Minister Leon Wessels said the agreement paved the way for all employers on the labour terrain to work to establish reasonable and just labour relations compatible with international standards.

And DP manpower spokesman Robin Garlake described yesterday's announcement as the most notable agreement for some time, which could have far-reaching consequences for economic growth.

However, organised agriculture greeted the agreement with "shock and indignation". The SA Agricultural Union (SAAU) said it had not been consulted on the plans for new legislation which will extend labour rights to farmworkers.

The Centre for Rural Legal Studies and Lawyers for Human Rights welcomed the "momentous nature" of the announcement and called on Wessels to immediately promulgate the Basic Conditions of Employment Act for farmworkers to prevent arbitrary dismissals before it was made law.

Naidoo and Nkosin Robotics were part of the agreement, which represented major progress towards an equitable labour relations system.

DIRK HARTFORD

One aspect of the agreement, which involves government in the dispute over Bophuthatswana's proposed labour legislation, will be implemented immediately.

Cosatu will attend a meeting today, convened by Foreign Minister Pak Botha and attended by Wessels, Finance Minister Derek Keys and Mineral and Energy Affairs Minister George Bertlett, with the Bophuthatswana government to discuss the proposed new law.

Other aspects of the agreement include:

☐ Extension of the Basic Conditions of Employment Act (by March) and the Unemployment Insurance Amendment Act — by January — to farmworkers. Draft legislation to extend the Labour Relations Act (LRA) and the Wage Act to farmworkers will be published by the end of the year with a view to passing it next year.

☐ Fromulation of the Basic Conditions of Employment Act for domestic workers by the second half of 1993, the extension of the Unemployment Insurance Amendment Act and Workmen's Compensation Act to domestics by 1994.

☐ Committee to consider how the recommendations of the Committee of enquiry should be implemented.

To Page 2

International Labour Organisation's fact-finding mission—which made recommendations to bring SA labour law into line with internationally accepted standards—may be implemented.

☐ Amendments to the LRA to enable registration of public and private sector unions by February, and

☐ Allowance for Cosatu to make an input on the Public Sector Labour Relations Bill.

There was also agreement on processes and committees to investigate problems regarding industrial council agreements, the Industrial Court (including the appointment of court personnel), the harmonisation of labour relations in SA and the homelands and the introduction of a labour appeal court next year.

In addition, it was agreed the restructured National Manpower Commission should start working by February.

Naidoo said Ncosa and Saccola were not part of the agreement because the "sticky points" in negotiations had been between Cosatu and government.

GERALD REILLY reports SAAU manpower committee chairman Chris du Tort said the decision had been taken without consultation with organised agriculture.

The SAAU had submitted its own draft legislation to the Minister and had "arranged to discuss its document on November 20. It was, therefore, with shock and indignation that agriculture learned that the Minister had, before his discussion with the agriculture sector, made a decision in consultation with Cosatu, especially in the light of the fact that Cosatu has virtually no members among farmworkers.

"All the good work of the recent past has now been rendered worthless by an ill-conceived decision."
Labour law cannot wait for farmers' union

Wessels

CAPE TOWN — The country could not wait for the SA Agricultural Union (SAAU) to produce concrete proposals for labour law for agriculture, Manpower Minister Leon Wessels said yesterday.

Justifying his announcement on the extension of key labour laws to agriculture, Wessels said he was surprised at the SAAU’s reaction.

In terms of an agreement between himself and the SAAU, it was to have submitted its proposals for a “consolidated, agriculture-friendly” law by September 30.

“What was eventually submitted to me did not even approximate the needs for reform and the need for timeous and swift performance in this process.

(The SAAU) only spelt out principles regarding the Labour Relations Act and (the proposals) implied that the Basic Conditions of Employment Act would have to be substantially renegotiated.”

Meanwhile, the Afrikaanse Handelsinstituut said yesterday the accord between government and Cosatu on extending the Basic Conditions of Employment Act had again highlighted the need for employer involvement in negotiating labour laws.

AHI vice-president P A Olivier welcomed the agreement and said it paved the way for creating and establishing a comprehensive labour dispensation.

However, the AHI regretted the perception that certain parties had been excluded from the process, illustrating the need for employer involvement.

The PAC-aligned Nectu union federation said yesterday it cautiously welcomed the accord.

The Domestic Workers’ Association yesterday expressed concern that it was not consulted about the negotiations.

The association had been negotiating with government since 1974.

In its reaction the Domestic Employers’ Association of SA said it was critical to the interests of domestic employers that any draft legislation concerning domestic workers be submitted to the association.

Chairman Claire Read said the agreement with Cosatu was “very wide and general in its scope” and called on government to hear the association’s views — Sapa.
Labour law anger — FW calls for talks

JOHANNESBURG — President FW de Klerk yesterday called for a meeting with organised agriculture as soon as possible to discuss objections to the extension of labour legislation to farm workers.

At a news conference earlier in the day, South African Agricultural Union president Mr Boet Fourie alleged that the extension of key labour legislation to agriculture could be used to disrupt agriculture for political purposes.

He also alleged Manpower Minister Mr Leon Wessels had caved in to pressure from Cosatu, and said the proposed legislation could not be implemented.

In a statement, Mr De Klerk said he was deeply concerned at the reaction to the proposed legislation. “The controversy which has arisen in this regard is neither in the interest of the employers or employees involved, nor of South Africa as a whole.”

The ANC insisted yesterday that the labour accord be translated into meaningful action to end what it termed the near-feudal conditions prevailing in the domestic and agricultural sectors.

The proposed legislation was an advance through decades of bitter struggle by individual domestic and farm workers, the ANC said in a statement.

— Sapa
Govt firm on March 1 for farm labour law

CAPE TOWN — Manpower Minister Leon Wessels yesterday reiterated government's commitment to extending the Basic Conditions of Employment Act to farm-workers by March 1, reports Sapa.

He was responding to a Democratic Party statement on President F W de Klerk's offer to meet farmers' unions to discuss the controversy over the extension of labour legislation to agriculture.

DP MPs Errol Moercroft and Robin Carlisle said De Klerk's intervention should not lead to further delays.

Commenting on the DP appeal, Manpower Ministry spokesman Johan Smit said: "The Employment Act for agriculture will be promulgated by March 1. This allows the various parties to continue negotiations meanwhile on a possible consolidated statute for agriculture."

Wessels called on the parties engaged in the negotiations to approach them with the appropriate responsibility, Smit said.

De Klerk's announcement on Wednesday followed warnings by the SA Agricultural Union that farmers would not implement labour legislation which they did not support.

Cosatu spokesman Neil Coleman said Cosatu hoped government would not bow to pressure from minority interests on this issue.

"While a long process of negotiations on the employment Act is over, our door is still open to discussions with the SAU on the question of how the Labour Relations and Wage Acts should be applied to agriculture," he said.

GERALD REILLY reports from Pretoria that the SA Agricultural Union (SAAU) will tell De Klerk at a meeting next week of farmers' anger at the "cozy" deal between Wessels and Cosatu.

De Klerk said earlier this week he was disturbed at the reaction to the extension of the laws to farm workers. He invited the SAUU to discuss the issues with him.

SAAU president Boet Fourie said last night the union would again stress the imperative need for agriculture to have its own labour law.
Major changes in labour law

Own Correspondent

JOHANNESBURG. — The agreement announced between the government and Cosatu yesterday, which will extend basic labour rights to millions of previously unprotected workers, is a major breakthrough for labour relations in SA, Cosatu general secretary Jay Naidoo said.

Manpower Minister Mr Leon Wessels said the agreement paved the way for all players on the labour terrain to work together to establish reasonable and just labour relations compatible with international standards.

And the DP manpower spokesman MP Mr Robin Carlisle described it as the most notable negotiating agreement for some time which could have far reaching consequences for economic growth.

Mr Naidoo said although a lot of the agreement still had to be implemented, it was major progress towards an equitable labour relations system.

The agreement made full provision for consultation with, and participation of, all relevant parties in its processes and committees, he said.

Other aspects of the agreement include:

- Extending the Basic Conditions of Employment Act and the Unemployment Insurance Amendment Act to farm workers and domestic workers;
- Draft legislation to extend the Labour Relations Act and the Wage Act to farm workers will be published by the end of the year;
- A committee will be established to see how the recommendations of the International Labour Organisation's fact-finding mission can be implemented, and
- Imminent amendments to the Labour Relations Act to enable unions organising in both the public and private sectors to be registered.

In addition, it was agreed the restructured National Manpower Commission should start working by February.

GERALD REILLY reports that organised agriculture yesterday responded with "shock and indignation" to a joint decision by Mr Wessels and Cosatu that labour legislation was to be extended to the agriculture industry.

Mr Chris du Toit, chairman of manpower committee of the SA Agricultural Union (SAAU), said in a statement last night the decision had been taken without consultation with organised agriculture.

Mr Du Toit said at the negotiations with Mr Wessels the SAUU was asked to prepare documentation on what it considered fair and practical labour legislation for the industry.

A meeting had been arranged for November 20 with Mr Wessels to discuss the issue.
Farmers 'may scupper reforms'

SHARON SOROUR
Labour Reporter
and MICHAEL MORRIS
Political Correspondent
CONTROVERSY has erupted over the groundbreaking government-Cosatu accord, which extends basic labour rights to farmworkers next year, amid fears that farmers could be tempted to scupper the reforms.

The agreement — reached after talks last Friday between Minister of Manpower Mr Leon Wessels and Cosatu to extend the Basic Conditions of Employment Amendment Act and the Unemployment Insurance Act next year — has been welcomed in many quarters.

But the powerful farmers' union, the South African Agriculture Union (SAAU) said it was shocked by the decision and warned of strong opposition by farmers.

SAAU chairman Mr Chris du Toit said: "It was with shock and indignation that agriculturists learned that the Minister had, before his discussion with the agricultural sector, adopted a decision in consultation with Cosatu."

The government is under pressure to ensure the reforms are put into effect.

Stellenbosch-based lobbyists the Centre for Rural Legal Studies and Lawyers for Human Rights welcomed the accord but called on Mr Wessels to promulgate the Basic Conditions of Employment Amendment Act immediately "to prevent any action on the part of farmers to dismiss workers before the Act becomes effective".

They said this was critical in the light of threats by farmers, who already had to cope with the devastation of drought.

"It would be tragic if the minister allowed conservative farmers the space to cut their losses through arbitrary dismissals prior to the promulgation of the Act," the lobbyists said.

Democratic Party manpower spokesman Mr Robin Carlisle added his voice to calls for the immediate promulgation of the legislation.

"The failure to promulgate this Act is now taking on the proportions of a national scandal and is a serious insult both to parliament and the many parties to its formation," he said.

The government has undertaken to promulgate the Unemployment Insurance Act for the agricultural sector not later than January 1, while the Basic Conditions of Employment Amendment Act, passed by parliament in June, is to take effect not later than March 1.

In addition, in terms of the agreement announced yesterday by Cosatu general-secretary Mr Jay Naidoo, the Department of Manpower is to draft legislation to extend the Basic Conditions of Employment Act to domestic workers.
COSATU and Manpower Minister Leon Wessels will jointly announce today details of a "ground-breaking" agreement covering the whole range of legislation and institutions affecting the labour market.

Sources close to Friday's talks between the parties said the agreement was the biggest yet reached between government and labour and dwarfed the September 1990 Labour Minster in its scope.

The sources said that while the Labour-Minister laid down "broad agreement" on general issues, the latest agreement dealt with a host of specific issues — down to the clauses in legislation affecting workers.

The agreement covers the Labour Relations Act, the Unemployment Insurance Fund Amendment Act, the Workmen's Compensation Act and laws affecting farm, domestic and public sector workers.

In addition, agreement was reached to make the restructured National Manpower Commission a working body by the end of January. Agreement had also been reached to establish task teams to settle "outstanding issues." In terms of the agreement, Cosatu would be involved in preparing legislation for public sector workers. This would replace proposed legislation which Cosatu had not been involved in drafting. A meeting has been planned between Wessels, Cosatu and National Health Minister Ruia Venter.

A Bill on public sector labour relations, which Cosatu rejected, was withheld during the past parliamentary session.

Agreement to extend the Basic Conditions of Employment Act to domestic workers was likely soon, as was draft legislation for farm workers. In addition, the year-end deadline for a report on the implementation of the recommendations of the International Labour Organization commission, which visited SA earlier this year, was discussed.
The drive by "progressive" unions in recent years towards centralised wage bargaining has suffered a setback. The Industrial Court has ruled that parties cannot be compelled to negotiate at a particular bargaining forum.

The judgment, in the case brought by the SA Union of Journalists against Times Media Ltd (owner of the FM) was delivered by Arthur de Kock, a senior member of the Industrial Court, on October 20.

The union had, under Section 43 of the Labour Relations Act, sought an order declaring TML's withdrawal from the SA Newspaper Press (Editorial) Conciliation Board an unfair labour practice. Further, that TML had unfairly breached a 1983 agreement (which appeared to cast the relationship in stone), and that TML's withdrawal notice should be rescinded.

The union's application was dismissed without costs.

The dispute involved not the obligation to negotiate, but rather the appropriate bargaining forum and the company's right to withdraw from the forum previously agreed and used. Respondents included Argus Newspapers and the SA Press Association, which, though no relief was sought against them, were cited as they had an interest in the matter.

TML had reached the conclusion that the board was no longer suitable for negotiations with its editorial staff represented by the union "to the extent that it was representative of them." (Representation was not at issue). The company believed that its attempts to negotiate changes to the board, or create a new forum, had failed. In April it informed the union that it would opt out at the end of July.

The employers had been unhappy with the old board for some time. They tried to pull out in 1982 but were checked by the union through the Industrial Court (Blenzard vs Argus and others, 1983)

That dispute was settled in terms of the 1983 agreement, which restricted the right of signatories to withdraw. They could not withdraw if it amounted to an unfair labour practice, unless a new forum was jointly agreed, if it breached the board's constitution; upon failure to agree, or "solely upon notice."

The court found it difficult to determine precisely what the parties intended by the clause. Its interpretation, however, is that an agreement of indefinite duration could be terminated if reasonable notice were given.

Though the 1983 agreement says no party is entitled to withdraw at will, this did not mean a party could not withdraw for reasons other than those contained in the agreement — commercial reasons, for instance. The provision against withdrawing "solely upon notice" clearly implied that there may be good and sufficient reason for withdrawing upon notice.

Among TML's reasons for wanting to leave the board, or restructure it, was that it was disadvantageous to the process to bargain in the presence of its main rival, Argus. While TML preferred plant-level bargaining, it was not wedded to the idea. The court found that TML's efforts to seek a new agreement with the union were fruitless and would continue to be fruitless.

While the court would compel collective...
New labour:

A new labour group is coming.

THE restructured National Manpower Commission will be operating by the end of January, Manpower Minister Mr Leon Wessels said yesterday.

This follows negotiations yesterday between the government and Cosatu. He said details of a formal agreement between them would be released on Monday.

A Cosatu source said Mr Wessels also reported on progress regarding the promulgation of amendments extending the Basic Conditions of Employment Act to farmworkers.

Political Staff, Sapa
A recent Supreme Court judgment “makes a national strike virtually impossible” and places international labour standards far out of South Africa’s reach.

This is the finding of labour analyst Bashier Vally in a post-mortem of the judgment in a case brought by the Steel and Engineering Industries Federation of South Africa (Seifsa) against the National Union of Metal Workers of South Africa (Numsa). In a paper to be published, Vally finds that the judgment effectively ended the strike in the metal industry because it “allows employers to allege irregularities and thereby frustrate the strike”, says Vally.

The court approved Seifsa’s request for an interdict against Numsa members on the grounds that the balloting had been illegal.

The clause in the Labour Relations Act which Seifsa relied on is the same one the recent International Labour Organisation (ILO) Commission for South Africa criticised and said needed urgent reform to comply with international freedom of association standards.

The judge upheld the interdict without probing the employers’ claims and in so doing severely limited the right to strike.

A Supreme court judgment in the recent Seifsa-Numsa dispute has serious implications for any future national strike, an analyst claims. By Ferial Haffajee

The court found problems with aspects of the balloting, although it accepted that “a trade union cannot be expected to conduct a ballot with the precision shown in a parliamentary election.”

Some of these problems were:

- The union’s inability to provide accurate membership figures.
- Denial that the ballot had been secret.
- The fact that Numsa could not ensure that each member voted only once.

Vally criticises this “formalistic and rigid approach to strike ballots”, saying that it doesn’t take account of the realities involved in conducting strike ballots. He cites examples of employers obstructing ballots by refusing to grant time off to workers or to providing access to trade unions. He also says some union members have not always been vigilant about ballots.

In the interests of better labour relations, Vally suggests that “management must inform the trade union of irregularities at the time they are committed so that the union can remedy them before costly legal remedies are sought”.

Balloting laws should also be streamlined because they “provide a weapon too easily
employers to frustrate any strike that fails to strictly abide with the terms of the legislation.

Recently, the ILO's commission to South Africa suggested that the Labour Relations Act (LRA) be amended to remove all obstacles to the right to strike in order to bring the legislation into line with ILO principles on the freedom of association.

The commission specifically addressed problems in the LRA with regard to balloting.

It said that the requirement for an absolute majority of workers in an industry for a strike ballot ran the risk of "seriously limiting the right to strike".
No progress made on farm workers' rights

By Joe Mdhlaba

THE Congress of South African Trade Unions (Cosatu) is to have another meeting with Manpower Minister Leon Wessels on November 5 on legislation affecting farm workers.

Cosatu this week said last week's meeting between the two parties yielded "no positive results." "Virtually no progress was made in areas of legislation on farm and domestic workers and in giving effect to the recommendations of the International Labour Organisation (ILO) fact-finding and conciliation commission," Cosatu said in a statement.

Parliament had passed laws on the basic conditions of employment of farm workers and the extension of the Unemployment Insurance Act to cover them, but the laws had not been promulgated, said the statement.

The department had still not drafted and published Bills on the extension of the Labour Relations and Wage Acts. This was nearly a year since the previous National Manpower Commission (NMC) made its recommendations.

The statement said the reason for the delay was the lack of political will within Government circles to create an internationally acceptable dispensation for farm workers.

Cosatu had registered its objection to the Government's breach of the Labour Minute in failing to consult with the federation on the extension of basic rights for the public sector.

The federation hoped the next meeting would see a resolution to these problems.
Protest at delay on farmworkers' rights

CAPE TOWN — Manpower Minister Leon Wessels has agreed to delay extending basic rights to farmworkers until he has tested the feasibility of a separate statute for agriculture, says the SA Agricultural Union (SAAU).

SAAU deputy director Kobus Kleynans said this yesterday in response to allegations that government had held back on a revised labour law covering farmworkers because of "unequal lobbying" by the farmers' union.

In a statement, he said: "The only agreement which we have with the Minister is that he will hold back the Basic Conditions of Employment Act until he can determine if our proposals for a separate labour law are feasible or not."

Earlier, the Stellenbosch-based Centre for Rural Legal Studies and Lawyers for Human Rights (LHR) said the Basic Conditions of Employment Amendment Act still had to be promulgated despite being passed by Parliament in June.

They said they were seriously concerned that, at this late stage, Manpower Minister Leon Wessels had chosen to accept representations from one party, the SA Agricultural Union, effectively stalling the Act.

Government's withholding of the Act "smacked of political dishonesty".

Meanwhile, about 1.4 million farm workers remained without the barest minimum of legal protection against abuses in the workplace.

The LHR and rural studies centre said the amended Act had been passed after lengthy negotiations in the National Manpower Commission between a wide range of parties.

These included the SAAU and Cosatu. — Sapa.
SAAU acts after Cosatu talks stall

PRETORIA — The SA Agricultural Union has sent its own proposals to government after talks with Cosatu on the issue of labour legislation for farmworkers became bogged down.

SAAU deputy director, general affairs, Kobus Kleynhans said yesterday a document had been submitted to Manpower Minister Leon Wessels setting out provisions which should be included in a separate labour Act for the agricultural industry's 1-million workers.

Kleynhans said the document was aimed at facilitating the drawing up of legislation, which it was hoped would be submitted to Parliament during the 1993 session.

Discussions with Cosatu on the issue started in February this year but have remained deadlocked.

Cosatu spokesman Lasa Seftel said discussions with the SAU would be resumed, once basic conditions for farmworkers had been legislated.

Kleynhans said Cosatu was opposed to organised agriculture's view that farmworkers should be the subject of separate and specific legislation, and instead wanted them covered by the Labour Relations Act.

Efforts by the SAU to persuade Cosatu to return to negotiations had failed so far.

"So we decided, taking into account the urgency of the issue, to go it alone and make proposals to the Manpower Minister," Kleynhans said.

Seftel said that after five meetings over several months, the SAU had not presented any concrete proposals to Cosatu and were more concerned with the principle than the content of future legislation.

Kleynhans said the aim of the recommendations made to Wessels was to incorporate in legislation maximum self-governance for farmers and their workers.

"We want to keep disputes and negotiations to settle them inside the farm gate, and we believe the vast majority of disputes are and can be settled in this way."

Where a deadlock developed, mechanisms would be included in the legislation to resolve disputes outside the farm gate.

These mechanisms were still being formulated, Kleynhans said. Wessels was not available for comment.
Watching over the industry

The Association of Personnel Service Organisations of South Africa (APSO) was formed in August 1977 out of the Association of Private Registry Offices, which had been in existence for about 10 years.

By 1976 personnel services in SA had undergone tremendous growth and diversification and it had become apparent that there was a need for a more representative body to safeguard all sections of the personnel service industry.

At the time representations were being made to both the Pieterse and Wiegahn commissions, which were in hearing over labour legislation, to ban employment agencies and temporary staff contractors. It was through submissions made by APSO to both commissions that provision was made for the industry in both the Industrial and Placement Act [sic] and the Labour Relations Act in 1982.

After careful study of similar associations in the United States, Britain and Australia, APSO adopted a constitution and code of ethics.

To make provision for the very varied sectors of the industry separate sections were formed, each of which drew up a code of conduct for members operating in that sector of the market.

There are at present seven sections within APSO:

- Personnel selection consultants
- General staff
- Temporary staff contractors
- Commercial staff
- Industrial and technical staff
- Computer and electronic staff
- Students and temporary and permanent placement.

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LABOUR LEGISLATION
1992
Decisions to be taken on farm labour laws

SHARON SOROUR
Weekend Argus Labour Reporter

A WORKING document on extending the Labour Relations Act to agriculture, the establishment of a special labour court and mechanisms for creating labour codes for the agricultural sector was gazetted this week.

The document flows from a report by the National Manpower Commission recommending the extension of the Act to the agricultural sector.

Manpower Ministry spokesman Mr Johan Smut said the government would decide whether existing legislation should be extended or one Act on labour relations in agriculture should be promulgated.

The decision will be based on comments received from interest groups on the document and further deliberations.

Last month controversy erupted when Manpower Minister Mr Leon Wessels entered into a ground-breaking agreement with Cosatu to extend basic rights to the country's 1.3 million farmworkers.

The farmers' union, the SA Agricultural Union (SAAU), threatened to scupper the plan because it was not consulted.

In terms of the agreement with Cosatu the government undertook to promulgate the Unemployment Insurance Act for the agricultural sector not later than January 1 and to enact the Basic Conditions of Employment Amendment Act — passed in parliament in June — not later than March 1.

The government agreed to introduce legislation to extend the Labour Relations Act and the Wage Act to agriculture.

Farmers were shocked by the decision and the SAAU warned it would oppose the agreement. However, it adopted a more positive stance after President De Klerk intervened and consensus was reached that the legislation would be "placed back in the negotiation process to develop practical applicable legislation adjusted to agricultural circumstances".

All interested parties are invited to submit comment on the working document before or on February 26 to the Department of Manpower, Private Bag X117, Pretoria, 0001.
New Bill heralds a better deal for farmworkers

By SEKOLA HILLO

The government has finally prepared its much-awaited draft bill to bring the working conditions of farmworkers in line with the rest of the country.

The working document is the extension of the Labour Relations Act which includes farmworkers under the Basic Conditions of Employment Act of 1953. The act is expected to bring about far-reaching changes in the farming industry.

In terms of the proposals, child labour (15 years and under) at the farms is effectively diminished, farmworkers are entitled to unionisation and collective bargaining, female workers are entitled to maternity leave, working hours are prescribed and wages determined.

The sweeping changes the government proposes are likely to overhaul the lot of farmworkers – generally regarded as the most underpaid, overworked and exploited employees in the country.

But as changes begin to take effect, the government and trade union federations, such as Cosatu and Nactu, could find themselves on a collision course with the powerful SA Agricultural Union which is opposed to any changes in the industry.

A month ago, when the government announced that it was considering extending the Labour Relations Act to farmworkers, the agricultural union expressed its opposition to the envisaged proposals, saying they were "unworkable" and that the legislation would not take into account the "unique circumstances of agriculture."

Farmers' representatives subsequently met State President PW de Klerk and Minister of Labour, Leon Wessels, to express dissatisfaction that there were no proper consultations with farmers on the implications of the Act.

To counter the swelling opposition to the envisaged legislation, Wessels proposed further discussions on the issue.

Farmers have until the end of February to submit comments to the government.

Among the important provisions of the Act is the establishment of a special labour court to listen to disputes between the employer and employee and the appointment of inspectors to monitor the farmworkers' working conditions.

If the bill becomes law early next year as seems likely, it will be an offence for an employer to hinder an inspector in the execution of his duties. It will also be an offence for an employer to dismissed or alter the service conditions of a worker if such an employee has given evidence to an inspector.

Farmworkers will in future have the right to belong to trade unions and will also have the right to participate in the union's activities. It will be an offence for an employer to prohibit an employee from participating in union activities.

Farmworkers will also be entitled to annual leave and sick leave. They are also entitled to terms in which female workers will enjoy the right to maternity leave. In terms of this leave, a female worker is not allowed to work for four weeks prior to her confinement and eight weeks after giving birth.

The summary dismissal of farmworkers, which is common practice on the farms, is prohibited, and in future, if a worker wants to terminate his services, the farmer cannot keep him against his will. However, the worker is entitled to notice.

Farmworkers will no longer have to work on public holidays as paid holidays and working on Sunday will be considered overtime.

Cosatu has played an important role in drafting the working document. Nactu says the proposed legislation is long overdue and has rejected farmers' demands that they be exempted from industrial courts in cases of disputes with workers.

While the general thrust of the proposals is to bring about enlightened labour relations on farms, the expected opposition from the farmers could turn these areas into battlefields.
Labour codes could set trend

A NEW system of legally enforceable labour codes recommended for the agricultural sector could set a trend for the introduction of a similar system in other parts of the economy. An investigation into the desirability of such a move is proposed in the draft Labour Relations Amendment Bill published in the Government Gazette on Thursday. The draft Bill is designed to extend the Labour Relations Act to cover the agricultural sector.

In addition to labour codes, it also seeks to establish a special labour court to operate in the sector, legally recognizes "no-strike" agreements, clarifies the grounds on which interdicts against strikes may be obtained and attempts to enhance the use of conciliation boards in the sector.

The draft Bill is in accordance with the November 6 agreement reached between Manpower Minister Leon Wessels and Cosatu that the department publish for comment draft legislation on the issue "before the end of 1992." The agreement provides that the Bill, based on National Manpower Commission (NMC) recommendations, be passed through Parliament in 1993.

Notes to the Bill point out a number of areas where employee and SA Agricultural Union representatives on the NMC were unable to reach consensus, and are likely still to be hotly debated.

The Bill authorizes the Minister to produce a labour code applicable to agriculture after recommendations have been received by interested parties.

The purpose of the code is to introduce clarity and certainty on unfair labour practice issues which have been adjudicated by the industrial and other courts.

It is seen as especially necessary for agriculture as "it would be unfair towards..."

Labour codes

both employers and employees to expect them to be au fait with the principles set out in the numerous decisions of the various courts. 6/10/94 4/11/93

A novel provision makes it possible for employers and employees — individuals, agricultural sub-sectors, or those in particular regions — to reach agreement on their own, legally binding labour codes.

The basis of operation of the special labour court is simplicity and speed.

The court would not, in cases of unfair dismissal, be entitled to order reinstatement (one of the matters of dispute between the unions and the SAAU). It would be able to order compensation only at a rate of two weeks' wages per year of service up to a maximum of 30 weeks. If a dismissed employee wanted reinstatement he or she would have to take the case to the Industrial Court.

Decisions of the special labour court would be final and the court would not be permitted to make orders on costs.

The Bill recognizes contravention of "no-strike" agreements as a particular ground for an Industrial Court interdict.

No-strike agreements are designed to recognize the seasonal nature of farming and minimize disruptions during peak farming periods.

Other grounds set down by the Bill for interdicts against strikes (and lockouts) are where the action

☐ Has caused or is liable to cause serious damage to employers' property or could endanger people's health and safety;

☐ Could destroy a business's viability, "unless the strike or lockout is functional to the collective bargaining process;" or

☐ Is conducted in a violent manner or is accompanied by threats of violence.

Before an agricultural sector unfair labour practice case is referred to the Industrial Court, it will have to follow the usual conciliation board procedures. Once the case has reached the court, the presiding officer will be entitled to refer the matter back to the board prior to hearing the case, instructing the board to attempt to expedite the settling of the dispute. 
Novel plans for future labour law being cultivated

By FERIAL HAFFAJEE

A LAST-minute parliamentary dash ensured a full set of labour law recommendations for the farming sector by the time the bells rang in the new year.

The publication of draft Wage and Labour Relations Act recommendations on the day before Christmas and on New Year's Eve bodes well for passage of legislation in the agricultural sector in 1993.

The Labour Relations Act proposals include a number of novel concepts, such as a special labour court and the capacity to introduce different labour codes in different regions and sub-sectors.

These recommendations recognise the particular circumstances of the farming sector, where conditions depend on the goodwill of individual farmers.

The government has yet to decide "whether the existing legislation should be extended or whether a single Act to regulate labour relations in agriculture should be promulgated," said Minister of Manpower Leon Wessels.

The special labour court will be similar to the small claims court in that it will provide quick relief and be easy to use because neither farmers nor workers are familiar with court procedures.

The working document suggests that farmers and their employees can enter into "no-strike" agreements and also recommends drawing the sector into the conciliation board system.

Although farmworkers will not be brought under the ambit of the Wage Act, the Wage Board can pass recommendations for the various sectors and regions in the sector.

But the board will have to take into account the "special circumstances" in the sector, like distance from markets, transport costs, the value of board, food and other benefits with which farmers provide their workers.
Putting a new face on labour's right to strike

By ADRIAN HERSCH

That — before the strike occurs — they have sufficient stocks for the 39 days

Dr Barker adds that there are further problems because of "the two sides of the coin approach.

Many employers believe that if workers enjoy protection from dismissal when on a legitimate strike, then employers should have the automatic right to dismiss when the strike is not legitimate.

"But many trade unions object to this," says Dr Barker.

Incompatible

Other ILO recommendations regarding strikes exclude widening of the strike definition to allow strikes over economic and social issues, amendment of the strike ballot provision, and provisions regulating strikes — simplification of the pre-strike procedural requirements.

"The strike issue is wide open for discussion. There's going to be a lot of discussion and, given all the complexities, it will take some time to resolve," says Dr Barker.

The ILO report recommended that full labour rights be extended to agricultural, domestic and public service employees, which is now taking place.

Dr Barker denies speculation that these changes are being made as a result of pressure arising from the report. "The processes were set in motion before the ILO made its investigation." The ILO report said that labour

Dr FRANS BARKER

legislation in each of the 11 homelands was incompatible with the "international principles of freedom of association.

Dr Barker says the NMC has limited influence over this. "The future labour legislation in these areas will largely be dependent on what will happen in the constitutional negotiations.

South Africa's reorganizing of ILO membership will also be dependent on constitutional talks progress. Dr Barker believes that the chances of admittance will be good once an interim government is in place. "Should the African bloc view the establishment of an interim government favourably, the door for our readmission will be open."

But he adds: "I don't think readmission membership should be our first priority. Our priority should be to ensure acceptable labour legislation — and once we've done that we will not, in any case, require that much technical assistance from them."

The restructured NMC will comprise 10 representatives from labour, 10 from business and 10 appointed by the Manpower Minister. All of whom will have voting rights.

Original recommendations were for representatives to be divided equally between business and labour, with a Department of Manpower representative having one vote.

Dr Barker says the change was made in order to try and accommodate those who are not represented by big business and the major trade unions.

Rules

Those appointed by the Minister will be drawn "from a diverse group of people." They comprise a chairman and deputy chairman, two legal representatives, two Manpower Department representatives and four other experts.

Dr Barker says the NMC will hold an informal meeting towards the end of the month in order to promote a consensus on who the four experts should be.

The NMC will establish rules of procedure, set up sub-committees, draw up an agenda and decide what interaction there should be with bodies such as the National Economic Forum (NEF).
Farms get in on the Act

Legal protection for farmworkers may finally reach the statute books this year — but when will it filter down to the farms? By DAWIE BOSCH

However, there is fear among all parties that a rightwing breakaway from the Transvaal and the Free State branches will render any labour legislation almost impossible to administer in these regions.

The Congress of South African Trade Unions, for its part, may have to agree to some of these concessions if it wants to show the fruits of negotiation and claim victory in a notoriously difficult sector — only five percent of the country's farmworkers are organised.

Negotiations on the Basic Conditions of Employment Act (BCEA) were reopened in November — despite an earlier agreement between Cosatu and the government to put the legislation into effect — and will be on the table during negotiations on the Labour Relations Act (LRA) and the Wage Act.

An unfettered BCESA is essential, especially in small towns where unorganised farmworkers flock to advice centres and other service organisations.

Cosatu's immediate concern, however, is to gain effective rights around the LRA to organise farmworkers in undertakings where organisation is viable — such as bigger company-owned farms.

To achieve this, they will be under considerable pressure to agree to additional compromise on the BCESA and to drop their demand for immediate extension of the Wage Act.

In terms of the Wage Act proposals, no determination can be made on minimum wages or other conditions of employment, but the Wage Board will be able to make recommendations to farmers.

It is unlikely the procedure will be used much since the last decade has seen a drastic decrease in wage determinations.

If the LRA proposals are legislated they will provide:

- Legal incentives for farmers to ensure that labour practices are fair for the first time
- For the creation of a special labour court, available more locally and similar to the small claims court: easy to use, quick but without the right to representation and appeal
- That a strike can be declared "unacceptable" for a specified period if it could cause serious damage to an employer's property or threaten the viability of the employer's business.

Although special measures around strikes may be in order in some sectors of agriculture, farmers would be able to use this clause to interdict most legal strikes in agriculture, undermine the only real bargaining tool workers have.

The LRA proposals provide that labour codes can be drafted for the agricultural sector and in sub-sectors by the National Manpower Commission.

If the farmworkers or their employee organisations see the code as unfair, the onus of proof will rest on them.

The Department of Manpower recommends that the extension of the LRA should not be made effective until a code has been fully negotiated in the NMC.

This is of grave concern since such a negotiating process will delay the extension of the LRA to agriculture by months if not years.

DAWIE BOSCH is a lawyer at the Centre for Rural Legal Studies in Grahamstown.
EMPLOYERS face fines of up to R100,000 or two years' imprisonment for major contraventions of the proposed Occupational Safety and Health Act (OSHACT) which is expected to replace the Machinery and Occupational Safety Act (MOSACT) towards the end of the year.

Businesses are being urged to prepare now for OSHACT because of its wide-ranging regulations, which are far greater in scope than MOSACT and will affect every concern, whether it employs one person or thousands.

Much more consultation will be required between management and the workforce and safety and health representatives will have to be elected or nominated after meaningful consultation.

Workers elected as representatives will have the right to investigate incidents.

Where circumstances warrant, employers will be entitled to go directly to an inspector.

"Greater responsibility for the safety of his workers will fall on the shoulders of the employer," said Ted Rowen, group loss control manager for Cape Town-based Irvin & Johnson.

"An employer will have to draw up a strategy to minimise risks.

"He will have to ensure that the mandatory training programme is in place.

"The onus will be on the employer to see that employees adhere to safety precautions.

"It is also possible that a medical practitioner may have to report any occupational disease to the Department of Manpower." Mr. Rowen suggests that employers:

- Start planning now and set time scales.
- Decide what is to be changed in present procedures and to what extent.
- Decide on the methodology to be employed.
- Be definite about who is to implement the various steps, as these cannot be left to untrained employees.
- Decide where the resources will come from.

"It is clear that the draft bill seeks to enlarge significantly the parameters of the legislation," says Ken Thom, a director of Corporate Liability Services, a risk management division of PFV Insurance Brokers.

"Penalties to be applied under OSHACT should grab the attention of management.

"They are five times more severe than those under MOSACT.

"The drastic penalties should be seen as an indication to the courts and the authorities just how serious a new is being taken of transgressions in safety and health in the industrial workplace."

In another development, the Department of Manpower has published an Injured Employees Compensation Draft Bill 1993, for information and comment.

This is intended to replace the Workmen's Compensation Act, 1941, and to insure employees or their dependants in the event of disablement caused by accident or occupational disease.

Under the present act only certain employees are protected, but the bill proposes that all employees should be protected irrespective of wages.

It also proposes the establishment of a Compensation Board representing employers' organisations, trade unions, the state and the Medical Association of South Africa.

Interested parties should submit comments by February 26 to Workmen's Compensation Commissioner (Attention Mr. Louis van Asen), P.O.Box 955, Pretoria 0001.
News in Brief

Labour law may get a face-lift

Special labour law dispensation which applies to Armcor employees may be scrapped in terms of legislation before Parliament.

According to a Bill to be considered by Parliament this year, Armcor workers will fall within the ambit of the Labour Relations Act, placing them in the same position as employees of private sector organisations.

(End)
It's business as usual in the House (for now)

Parliament as we know it will probably bid its farewell this year, but by the looks of things so far, it'll be business as usual until the brokers of the new South Africa prompt its metamorphosis.

With 1993 being the critical year of constitutional change, the media spotlight will shift from graceful Cape Town to Johannesburg, leaving MPs the less exciting job of rubberstamping amendment Bills — mostly uncontroversial — largely left over from last year.

Pioneers

If all goes well on the political front, however, Parliament's grandest gesture will be in passing legislation for the first laws basic to a transitional constitution.

Indeed, it is possible a Government/ANC-agreed Transitional Executive Council could be written into law by June.

But while Parliament awaits word from the new constitution pioneers, the show must go on with ears and bolts legislation.

Of biggest import will, of course, be Finance Minister Derek Key's Budget, expected to introduce higher VAT and taxes to counter the rising national debt.

Perhaps the most immediately controversial laws to be enacted during the pending session are those that constitute the new labour code.

The Bills are aimed at introducing equity in labour conditions in all economic sectors. Most importantly, farm labourers will be legally protected for the first time.

Predictably, the conservative farmer community, organized by the SA Agricultural Union, is opposing the new labour code. Hot debate is therefore expected before the deadline at the end of February, when the final drafts will be tabled.

Also on the labour front is the Injured Employees Compensation Draft Bill, to replace the Workmen's Compensation Act. This law will tighten up insurance of employees or their dependants in the event of disablement. Most importantly, all employees will be insured, irrespective of their earnings, and compensation for occupational diseases will be more equitably provided.

There are some laws on the cards designed to pull the reins a little too recklessly.

The Road Traffic Amendment Bill of '93, providing for a separation of the drivers' licence from the identity document, also provides for far more severe punishments for lawless driving, including automatic suspension for serious offences.

And in the Liquor Amendment Bill, higher penalties are proposed for liquor sales to minors and the opening of bottle stores on public holidays.

Dog owners exercising little control over their pets will need to take cognizance of the Animal Matters Amendment Bill which, once passed, will enable the State to impose a fine of up to R40,000 or two years' imprisonment on the owner of a dog which attacks an innocent.

The Department of Correctional Services will be tabling the Correctional Services Amendment Bill, designed to cover the loophole which saw the notorious Lucky Malaza erroneously released from prison as a political prisoner.

The new law will provide "checks and balances based on sound legal principles", according to a department spokesman, although no details have yet been made known on exactly what these are.

And gambling operators beware! Last year's Gambling Amendment Act, which caused such a stir that a moratorium on casino prosecutions was introduced, will probably come into effect in full force after January 31, the moratorium deadline.

(The Act outlawed hard gambling, but the Howard commission into gambling has still to report on whether selective gambling should be allowed.)

Other legislative changes on the agenda this year are geared toward deregulation.

Civilians

The Department of Law and Order will tabling the Police Amendment Bill to replace the Police Act. The objective is to provide for the employment of civilians. This new development is aimed at exchanging rank police officers in management/administrative posts with civilians, freeing policemen to fulfill normal duties.

There is a strong possibility that the Marketing Act, which empowers the existing marketing boards, will be amended in line with recommendations of the Kaster Committee into the marketing system.

The committee proposed deregulation of the marketing and control boards and the curtailing of the extensive powers currently afforded to the boards and the Minister of Agriculture.
Farm labour law talks resume

PRETORIA — Negotiations on the application of labour legislation to the farming industry will be resumed tomorrow against a background of a demand from organised agriculture for separate legislation for farming.

Represented at the meeting will be the SA Agricultural Union (SAAU), the Manpower Department and organised labour, including Cosatu.

Negotiations on the issue have been in progress on and off for the past 12 months and government has given the negotiators until end March to reach an agreement otherwise government will decide on the issue.

There are more than a million workers employed on farms.

Only one of the three pieces of legislation — the Basic Conditions of Employment Act — has gone through Parliament.

Comment on drafts of the other two — the Labour Relations Act and the Wage Act — is still being submitted to the Manpower Department.

The SAAU's manpower spokesman Kobus Kleynhans said the unique conditions in the farming industry justified a separate Act.

If government decided the three Acts would be applied to the industry, "then amendments will have to be made before they are acceptable to organised agriculture."

Kleynhans said government intended to extend the Wage Act to farm workers during the coming parliamentary session "but on this the last word has not been spoken." Wage packages, he said, were not as popular among farmworkers as was generally believed.
The amendments to the Wage Act were also a farce as they did not extend wage determination to farm workers. (Queen 11/12/93)
Draft Bills flawed, says Cosatu

THE Congress of South African Trade Unions has expressed concern about the proposed changes and extensions to the Labour Relations Act as well as the Wage Act, both in relation to farmworkers.

Cosatu said in a statement yesterday after studying the two draft Bills it found it had major problems with the contents of the proposed legislation. The draft Bills were "seriously flawed", it said. Cosatu said it did not approve of suggested limitations on the right to strike, the introduction of labour codes for agriculture and a special labour courts for farm workers which would only "entrench the baasskap of farmers".
Restructured manpower body to play key role

TIM COHEN

CAPE TOWN — Fundamental restructuring of the National Manpower Commission will make the body the focal point of labour relations negotiations. (NS) Government is likely to announce today the new functions and composition of the body, which will rival the economic forum in representativeness and credibility.

A likely announcement is that the revised commission will be composed of 10 members each from the trade union movement and employer organisations.

Also, 11 experts (including the chairman) will be appointed by government from the fields of labour relations and economics. Their inclusion is considered a major change from the composition of the old body, from which Cosatu withdrew in 1991.

The experts will include lawyers who have represented both labour and business, several high profile economists and representatives from business.

The new body's tasks will be wide-ranging and could include the complete revision of the Labour Relations Act. It is also likely to consider the results of studies on SA labour relations conducted by a fact-finding and conciliation committee of the International Labour Organisation.

It will have the authority to look into any issue on labour policy and practice.

It remains an advisory body and has no power to bind Cabinet or the Budget. However, given the composition of the commission, it will be extremely difficult to ignore its decisions and recommendations.

The exact relationship between the commission and the economic forum has not been discussed in detail, but officials place a high priority on communication between the two.

In Parliament this week the commission's first meeting would take place on February 12.

It was pivotal to a new democratic dispensation, that SA have a sound economy which satisfied all the reasonable expectations of the country's citizens. Thus ideal was not possible without a fair labour dispensation, he said.
Committee holds back public sector Bill

CAPE TOWN—A major political crisis had been defused with government's referral of a controversial draft public sector labour law for further negotiation. Cosatu general-secretary Jay Naidoo said yesterday that Cosatu had earlier warned of a "massive storm" brewing over what it called government's unilateral bulldozing of the Public Service Labour Relations Bill.

Standing committee on Home affairs chairman Pat McKenzie said he had asked the committee to refer the Bill for further talks between the Commission for Administration and interested public sector employee groupings in order for those parties to reach a compromise.

"I told Mr Naidoo I would do my utmost best to achieve consensus. I told him I would not pass the legislation through the committee today. The NP has had ample time to bulldoze this legislation. My job is to pass good legislation; not just to change it, but make sure it withstands the test of time,"—Sapa.
SA labour laws (166)

'hopelessly biased'

Property Editor

A major factor mitigating against foreign investment in South Africa is that labour laws are 'hopelessly biased' in favour of a workforce which has one of the lowest productivity profiles in the world.

So says William Hulscher, outgoing president of the Master Builders' Association (MBA).

Speaking at the southern Transvaal branch's annual meeting last night, he said research conducted for the California-based Institute of Management resources had shown that major firms did not regard South Africa as suitable for investment in the near future.

Among their fears were the threat of nationalisation, the possible introduction of a wealth tax, increasing levels of personal tax and high mortgage rates, as well as inadequate productivity levels and management quality control.

However, Hulscher said, the researchers had also found that large employers among potential investors were frightened off by labour laws biased in favour of workers.

The past year has also seen an increase in the number of mass action campaigns, politically motivated stay-aways and a general lack of interest and go-slow attitude, among workers in industry.

"It is time the unions came to realise that the wage must be linked to productivity." Hulscher appealed for government funding for training programmes to raise labour productivity on building sites.

Keith Edge, the owner of WEB Construction, is the new MBA president.
Row averted by Bill's referral

CAPE TOWN — A major political crisis had been defused with the Government's referral of a controversial draft public sector labour law for further negotiation, Congress of South African Trade Unions general secretary Jay Nдов said yesterday.

Cosatu had earlier warned of a "massive storm" that was brewing over what it called the Government's unilateral bulldozing of the Public Service Labour Relations Bill.

"The Standing Committee on Home Affairs has now, correctly, decided to resolve the matter through negotiations," Nдов said.

Standing Committee chairman Pat McKenzie said he had asked the committee yesterday to refer the Bill for further talks between the Commission for Administration and interested public sector employee groupings.

"They must come back to the committee when they are ready to submit certain compromises," McKenzie said.
New deal for farmworkers

By GAYE DAVIS Cape Town

WORKERS employed on an Elgin fruit farm have agreed not to strike and their employer has agreed never to lock them out in terms of a recognition agreement believed to be the first of its kind in the western Cape fruit farming industry.

The agreement, signed between Molteno Brothers Trust and the Farmworkers Support Committee (FSC), which represents more than 600 workers on the farm, anticipates pending changes to the Labour Relations Act to include farmworkers within its ambit.

FSC general secretary Grant Twigg said because housing formed part of farmworkers’ pay packages, a lock-out could mean families being summarily evicted from their homes. The clause would fall away if the Labour Relations Act extended protection for striking workers to farm labourers, he said.

Johann Hamman, a researcher for the Centre for Rural and Legal Studies in Stellenbosch, said the agreement’s significance lay in a compulsory mediation and arbitration clause. “It tries to accommodate a farmer’s fear of a strike during the height of the harvest season, and also protects workers who might find a farmer reopening negotiations during the winter season, when, if the talks failed, he could theoretically lock them out of their homes.”

Hamman pointed out that while industrial workers in industry had a year-round capacity to strike, for farmworkers it was generally limited to the harvest season. However, farmworkers’ vulnerability to a lock-out lasted all year long, he said.

Twigg said any disputes over dismissals or wages would be referred to a mediator if negotiations between management and shop stewards deadlocked. If mediation failed the matter would go to arbitration for final settlement. “We hope this agreement will encourage other farmers to forge similar recognition agreements,” he said.

Frank O’Driscoll, general manager of Molteno Brothers Trust, said “We may have lost a certain amount of power in our labour relations but that’s not necessarily a bad thing. The bottom line was we felt our employees wanted (the agreement) and that they should get it.”
The reconstituted National Manpower Commission (NMC) was due to hold its first official meeting this week under Frans Barker, new full-time chairman. The new deputy chairman, also appointed by Manpower Minister Leon Wessels, is former garment worker, veteran unionist and founder of the Commercial, Catering & Allied Workers' Union, Emma Mashumun.

Aside from having to determine rules of procedure and special committees to be set up, the commission will formulate comment on draft Bills on the rights of farm workers and domestic servants.

A minor snag could be the absence of SA Agricultural Union representation. The union has decided not to take part in the NMC "at this stage," though it would like its seat reserved because it hopes a separate Act will be forthcoming on farm labour issues. This would appear to be unlikely, however, as Manpower last year recommended their inclusion under the Labour Relations Act (LRA).

Among matters the NMC will tackle in the near future are the drafting of the LRA and the right to strike, dismissal of striking workers, the extension of industrial council agreements, the Labour Court system, union registration and implementing the recommendations of the International Labour Organisation's fact-finding mission to SA last year. It criticised the absence of the right to strike — an issue that, more than any other, will test the ability of employer

and employee representatives on the NMC to reach consensus.

After a certain amount of bad blood, which saw Cosatu pull out of the NMC a year ago, the process of restructuring came to fruition at the end of last year, when the Cabinet gave its approval.

First set up in 1979, the reformed NMC is now constituted on a tripartite basis (government, employer and trade union representation) as an advisory body within the framework of the LRA. It follows the recommendations of a specially appointed working group drawn from employer and employee bodies as well as other interest groups.

The NMC's main tasks are to investigate any labour-related matter, including policy, and to make recommendations to the Minister. It is more concerned with structural aspects of the labour market than with day-to-day issues, explains Barker.

NMC advice will, as far as possible, be given on the basis of consensus. It will thus be a negotiating forum, though it has been agreed that such negotiations will not necessarily bind government. It will, however, have substantial influence, says Barker, because it consists of interest groups (rather than individuals as in the past) whose proposals will be difficult to ignore. Also, the Department of Manpower is now a full member, which wasn't the case in the past.

A potential problem for the employers' side could be the question of mandates; it will be a challenge not only to employer bodies to reach a common position, but to individual employers to participate in their business organisations.

All NMC recommendations with economic or financial consequences will be referred to the National Economic Forum or the State President's Economic Advisory Council for consideration, while recommendations from those bodies with labour implications should be referred to the NMC.

The NMC will consist of about 30 members — a third nominated by business, a third by employee organisations, and a third independent members appointed by the Minister after consultation. The emphasis has shifted from a body of experts to one that represents interests.

All members will have voting rights and all points of view will be reflected in NMC reports to the Minister.

Apart from the chairman and deputy, the independent members comprise: two legal experts (Halton Cheadle, of attorneys Cheadle, Thompson & Haysom, and Willem le Roux, of Bowman, Gilfillan), two representatives of the Department of Manpower (Deputy DG Joggie Kastner and Labour Relations Director Dennis van der Walt); and five independent experts: Rand Merchant Bank's Rudolph Gouws, Western Cape University's Pieter le Roux, Cape Town University's Francis Wilson, executive director of the Law Review Project Louise Tager, and Independent Mediation Services' Charles Nupen.

Employer bodies represented include the AHI, Chamber of Mines, civil engineers Safoce and BfSas, Fabcos, the Federation of Employers' Organisations for Local Government, Nafoco, Sacoh, SiSas and the SAAU (vacant).

Unions on the NMC are Cosatu, Fedsal, Fitu, Sacol and Nasco — which seems to be having difficulty nominating its representatives.
Call for stay on labour law

CAPE TOWN — The National Manpower Commission yesterday signalled its intention to press the Bophuthatswana government to stay the implementation of its controversial Labour Relations Act.

Minister Leon Wessels said the commission had noted “with concern” the possible implementation of the Act and had conveyed this to government. The commission felt implementation would harm employees and employers and could lead to intensified labour conflict. The newly restructured commission had unanimously asked the government to “prevail on the Bophuthatswana government to stay the implementation of the legislation.”

Government plans to take up the issue with the Bophuthatswana government, but officials said they were not overly confident of their success.

The commission motivated its request by saying that further discussions were necessary in the light of the proposed re-drafting of the SA Labour Relations Act and the discussions regarding a new political dispensation for SA.

Cosatu, a leading member of the commission, has long opposed the legislation, believing it to be aimed at effectively banning the federation from operating in the territory. A provision of the legislation holds that only unions registered in the territory will be recognised.

The legislation was due to be implemented last year but was held back after objections from labour and business.

The commission said labour legislation should have all role players’ support, especially as the labour market and the economies of the two countries were interwoven.
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The legislation was due to be implemented last year but was held back after objections from labour and business.

The commission said labour legislation should have all role players' support, especially as the labour market and the economies of the two countries were interwoven.
Farm labour laws take effect today

The Argus Correspondent
DURBAN. — Farmers urgently need to gear themselves up for new labour legislation which comes into force today.

Mr Dunstan Farrell, of Durban-based Shepstone Wylie's employment law and industrial relations division, says benefits of the new legislation will be felt by employers as well as farmworkers.

Now clearly demarcated parameters of employment, leave and dismissal conditions "will provide the framework for higher work standards, productivity and efficiency within the agricultural sector."

The changes will see the Basic Conditions of Employment Act (BCEA) extended to the agricultural sector. The Wage Act and the Labour Relations Act will be extended to the sector during 1993.

The BCEA provides for:
- A maximum of 48 working hours a week (with limited exception up to 52 hours made in a written agreement).
- Hours cannot be extended to more than 10 hours a day, nor can overtime exceed 2½ hours a day or six hours a week.
- A farmworker is entitled to at least one month's notice of termination of service and in this period retains rights to continue in accommodation, keep livestock on the land and harvest his crops planted on a farmer’s land.
- A farmer may not pay a worker on the basis of work performed — piecework — unless this exceeds his normal remuneration.
Armscor labour ruling

LEGISLATION to bring Armscor employees under the Labour Relations Act received unanimous support in Parliament yesterday.

Armscor previously had 'had what Deputy Defence Minister Wynand Breytenbach called its own unique labour mechanisms'.
Unions, farmers: 30 days to agree

THE South African Agricultural Union and the Congress of South African Trade Unions have 30 days left in which to settle their long-standing differences over labour rights for farmworkers.

The deadline for comment on draft labour laws for farm and domestic workers expired on February 26, and interested parties had until the end of March to find consensus, Manpower Ministry spokesman Mr Johan Smit said on Friday.

In a statement yesterday, Manpower Minister Mr Leon Wessels called for constructive negotiations to narrow the gap between the parties.

"It appears from the comments received that there are still several differences between the role-players," he said. He hoped to give the cabinet a progress report by the end of March.

Cosatu and the SAAU still disagreed on the role of labour codes, strike rights, a separate consolidated labour law for agriculture, organisational rights, dispute procedures, wage measures and certain basic conditions of service.

Cosatu has pressed for all labour laws to apply to all workers, while the SAAU submitted a draft law catering exclusively for labour relations in agriculture.

Negotiations on extending labour laws to an estimated 1.3 million farmworkers followed shortly on the Laboria Minute, signed in September 1990.

The amended laws under scrutiny were the Basic Conditions of Employment Act, the Wage Act, and the Labour Relations Act.

Mr Wessels said that in terms of agreements with the SAAU and Cosatu, the government would determine the final form of the laws in question.

The government has committed itself to implementing the laws by the end of 1993 — Sapa
Eleventh hour move on law

Conflict Concern: Cosatu steps in to prevent implementation of labour legislation.

By Ike Motsapi

The Congress of South African Trade Unions has sent an urgent appeal to the Government and the chairman of the Goldstone Commission to forego Bophuthatswana not to implement a controversial labour law today.

Cosatu warned yesterday that a crisis situation was developing in the homeland regarding the unilateral implementation of an unacceptable labour law.

In letters to Mr. Pits Bollya, Mr. Leon Wessels, ministers of foreign affairs and manpower respectively, and Mr. Justace Richard Goldstone, Cosatu said it appeared that the homeland authorities were "intend on implementing the new Industrial Relations Act on March 1."

The legislation, if implemented, will ban trade unions from outside the homeland from operating in Bophuthatswana.

"Mr Sam Shulowa, Cosatu’s assistant general secretary, said the trade union federation has in no other way objected to the implementation of this legislation. "The legislation fails to provide workable and acceptable dispute resolution mechanisms and will accordingly not facilitate stable labour relations.

"In addition, it falls foul of the standards of the International Labour Organisation’s Fact Finding and Conciliation Commission to South Africa, which said the country is responsible for what happens in that homeland."

"Of immediate concern is the impact that the implementation of this legislation will have on labour relations in Bophuthatswana and South Africa, given the prohibition placed on the country’s linked trade union, " Shulowa said.

He said Cosatu’s concern was that the legislation will increase tensions and the possibility of violent confrontation if implemented.
Tvl farmers reject strikes

PRETORIA — The Transvaal Agricultural Union has withdrawn from further participation in the SA Agricultural Union’s actions on labour legislation.

The decision was prompted by the SAAU’s acknowledgement of agricultural labourers’ right to strike, the TAU said yesterday.

This was “unacceptable”, it said.

“There are biological processes which have to continue, and a strike could totally ruin a farmer.” — Sapa CT 4/2/93
A new deal for domestics

LEGISLATION would be introduced this year to improve the working hours and service conditions of domestic workers, the Minister of Manpower, Mr Leon Wessels, said yesterday.

He could not, however, say when legislation on the salaries of domestic workers would be introduced, because the committee investigating the matter had not yet reported back.

Mr Wessels, who was replying to a question tabled in Parliament by Mr Robin Carlisle (DP, Wynberg), said he intended introducing the legislation on working hours and service conditions of domestic workers "during the 1993 parliamentary session."

The committee investigating domestic worker salaries would report back by September this year on possible methods of wage regulation and the impact thereof on employment opportunities in the domestic sector.

"The tabling of legislation will be dependent upon this investigation and further consultation," he said.
Better deal for domestics mooted

CAPE TOWN — The Government is considering the possibility of legislation to impose minimum wages for domestic workers, Manpower Minister Leon Wessels has indicated.

He said a committee was investigating the regulation of domestics' wages and the impact this would have on jobs.

Tabling of legislation would depend upon the committee's recommendations, due by September. However, other legislation would be introduced during the present sitting of Parliament to improve the working hours and service conditions of domestics. — Political Staff
Minimum wage for domestics

The Government is considering legislation to impose minimum wages for domestic workers. Manpower Minister Mr Leon Wessels said tabling of legislation would depend on the recommendations of a committee probing the matter. Their report is expected in September.
Breakdown in farm talks

Own Correspondent

JOHANNESBURG — The SA Agricultural Union and Cosatu yesterday failed in an 11th-hour bid to reach agreement on labour legislation for the country's one million farmworkers.

An SAAU spokesman said the deadlock was "absolute".

Both sides were warned by Manpower Minister Mr Leon Wessels that if there was no agreement by March 31 the government would decide on the issue.

The SAAU spokesman said disagreement on the application of the Basic Conditions of Employment Act was a major reason for the breakdown.

The inflexibility of the 48-hour week in the legislation was unacceptable to the SAAU.

Cosatu demanded that the Basic Conditions of Employment, the Wage and the Labour Relations acts be applied to farm workers.

Strikes at critical times in the farming cycle would have serious consequences, the SAAU spokesman said.

Cosatu's view was farm workers were entitled to the same rights enjoyed by workers in other sectors.
Farm labour talks deadlock

THE SA Agricultural Union and Cosatu yesterday failed in an 11th-hour bid to reach agreement on labour legislation for the country's 1-million farm workers.

An SAAU spokesman said the deadlock was "absolute".

Both sides were warned last year by Manpower Minister Leon Wessels that if there was no agreement in the 18-month-long negotiations by March 31, government would decide on the issue.

The SAAU spokesman said disagreement on the application to farm workers of the Basic Conditions of Employment Act was a major reason for the breakdown. The inflexibility of the 48-hour week provided for in the legislation was unacceptable to the SAAU.

The SAAU had pleaded for separate legislation for agriculture because of the "unique conditions in the industry".

From Page 1

Deadlock 8107-1

Cosatu spokesman Neil Coleman said government had agreed in principle to the three labour Acts being applied to farming Cosatu's view was that farm workers were entitled to the same basic labour rights and privileges enjoyed by workers in other sectors of the economy.

"We have not been blind to the needs of the industry. Our approach has been flexible, but at the end of the day the core issue is that of ensuring farm workers have effective bargaining mechanisms and rights, including the right to strike." He said the issue had been brewing for months and farm workers could not wait much longer for a settlement.

Manpower director-general Joos Pours, who was at the meeting, said it was regrettable that it ended without consensus. Government would have to decide "within the next week or two" what labour legislation would apply to the agricultural industry.
Cabinet set to act on farm law

SHARON SOROUR, Labour Reporter

CONTROVERSY over extending labour law to farmworkers could come to a head next Wednesday when the Cabinet decides whether — or how — to apply the contentious Basic Conditions of Employment Act to agriculture by the end of March.

Minister of Manpower Mr Leon Wessels yesterday said he was obliged to present to the Cabinet a progress report on the labour legislation, even though the parties had not reached consensus.

He said the Cabinet would decide on the content of the law, as well as when and how it should be applied.

The Government has an agreement with Cosatu to extend the Basic Conditions of Employment Act to South Africa's 1.2-million farmworkers by the end of the month.

But the latest round of talks between trade union federation Cosatu and the powerful farmers' SA Agricultural Union ended in deadlock this week.

Cosatu spokesman Mr Neil Coleman said the parties could not reach consensus on applying the law to farmworkers by the end of March.

"The agricultural union said they needed the application date to be extended again, but this is totally unacceptable. The Act, as well as other laws, were supposed to be applied to the sector last year," Mr Coleman said.

Cosatu expected Mr Wessels to honour last year's agreement to extend the legislation to agriculture by the end of March.

He added that Cosatu had no plans for a last-minute meeting with the SAAU to resolve differences before the Cabinet meeting.

But Mr Wessels said that he and Department of Manpower officials would "still endeavour to narrow the matters at issue" between the parties in the best interests of employers and employees.

He said he was disappointed at the outcome of negotiations.

The two parties have had a 30-day extension — from March 1 — to settle their long-standing differences. Although the deadline for comment on draft labour law expired on February 26, the parties were given until the end of March to find consensus.

Cosatu has campaigned for four labour laws to be extended to agriculture — the BCEA, the Labour Relations Act, the Unemployment Insurance Act and the Wage Act — while the SAAU wanted a single labour relations law specifically geared to agriculture.

* The SAAU could not be reached for comment.
Ultimatum given over law for farm workers

Political Correspondent

MANPOWER Minister Mr Leon Wessels yesterday gave an ultimatum to Cosatu and the South African Agricultural Union (SAAU) on the extension of labour legislation to farm labourers.

Mr Wessels said he was disappointed the talks between Cosatu and SAAU deadlocked.

He warned the cabinet would decide on the extension at the end of the month.
NEWS IN BRIEF

Cabinet to act on labour law
THE Cabinet would decide next week on labour legislation for farm workers, Manpower Minister Leon Wessels said in a statement yesterday. The SA Agricultural Union and Cosatu have failed to agree on what the legislation should be, and Wessels has said government will have to decide for them.

Transfer of Groot Constantia
INTRODUCING the Groot Constantia Trust Bill yesterday, Agriculture Minister Klaas van Niekerk told Parliament the measure authorized the formation of a non-profit trust which would take over the estate. He said the historic estate was being transferred to the wine industry, thereby relieving the state of its financial responsibility.

Mandela meets delegations
ANC president Nelson Mandela met a visiting European Commission and Afro-Caribbean-Pacific Group delegation in Johannesburg yesterday. ANC spokesman Carl Niehaus said they held “general discussions about the political situation.”
At a separate meeting immediately before, Mandela met Azapo president Prof Itumeleng Mosala. Both leaders said their talks, which were routine, had focused on “the unity of liberation movements.”

Teacher cuts outlined
A TOTAL of 5,045 teachers were retrenched or retired early during 1992, House of Assembly Education and Culture Minister Piet Marais said in Parliament yesterday. He said 906 teachers who qualified at the end of 1992 — and were bursary holders — could not be employed as they were unable to obtain posts. However, 5,045 white student teachers had bursaries at present at a cost of R32.4m to the state.”

Interest on late VAT payments decreased
CAPE TOWN — Legislation was introduced in Parliament yesterday that decreases the rate of interest payable on late VAT payments by vendors from 1.8% a month to 1.3%.
The amount payable according to the Value-Added Tax Amendment Bill by Inland Revenue to vendors when refunds are due is to be 16% per annum, a reduction of 4%.
The legislation also empowers the Finance Minister to change the rates of interest from time to time, which may become necessary when prevailing interest rates in the financial sector increase or drop.
The laws comes into effect as from the beginning of the calendar month following the month during which the amending Act is promulgated.
The legislation also clarifies what VAT rate is applicable when the rate is changed, stating that according to the principle Act, liability arises on the date on which a supply of goods or services is made.

Ray

Less an opini...
Legal bodies support ANC call on judges

GERALD REILLY

PRETORIA - Legal authorities yesterday supported the ANC's call for more black judges but stressed the dangers of an affirmative action programme which ignored essential qualifications and experience.

The ANC has long condemned the present system of appointments to the bench as "racist, sexist, illegitimate and non-representative".

Johannesburg Bar Council chairman Wim Trengrove said the council was encouraging blacks to obtain the needed qualifications to join the ranks of advocates as a background for possible appointment to the bench.

He said the number of blacks in the law profession had not kept pace with the substantial black student component at law schools.

Association of Law Societies (ALS) director-general Andre van Vuuren said part of the solution lay in granting attorneys the right of audience in the Supreme Court.

Concern over new child labour laws

KATHRYN STRACHAN

THE practice of child labour was on the increase in SA and proposed new legislation threatened to exacerbate the problem, the Network Against Child Labour claimed yesterday.

Jacquie Loffel, the organisation's convener, said proposed regulations covering the issue of labour in the Child Care Act would further entrench and expand exploitation.

She said a storm had broken between the Department of Health and the network, which had been fighting to block the practice and the introduction of new clauses in the Child Care Act.

The network comprises a wide range of welfare, legal, labour and church bodies.

In terms of guidelines approved by a working group, convened by the Department of Health, employers will be permitted to hire children aged 12 to 15 years for pocket money, subject to a set of restrictions on hours and conditions of work.

But the network has contested the clause on the grounds that it would allow too many loopholes.

The guidelines were unenforceable and the addition would exempt sectors, such as supermarkets, which had been barred from employing children under 15, Loffel said.

The organisation recently dissociated itself from the working group because, despite its objections, the controversial clause was endorsed.

By far the most exploited were children working on farms, said Loffel.

"Farm children who stood to profit by the recent extension of industrial legislation to cover agriculture, will, if the guidelines come into force, remain completely vulnerable.

The SA Agricultural Union had been actively lobbying government to retain the practice, she said.

A Health Department spokesman said he could not comment because the matter was sub judice.

Loffel said it was difficult to establish the extent of the problem because employers, parents and children were reluctant to report the practice.

But in 1985 the International Labour Organisation reported the figure to be at least 60 000 and it had grown since then.

She said the issue of child labour was complicated, because many families depended on the wages brought in by children. The network was campaigning for adequate social security grants so that families would not have to depend on child labour, as well as universal free education.

Aside from being allocated on racial lines, social security grants were in practice difficult to obtain and only available to the destitute, she said.

FINANCIAL RESULTS

for the year ended
31 December 1992

SAPO reassigns manpower to aid operations

GERALD REILLY

PRETORIA - Police would strengthen the operational manpower by transferring personnel from purely administrative duties to the operations division, police commissioner Gen Johan van der Merwe said yesterday.

He said the basis of a plan to use manpower more efficiently was to achieve a clear division between operational and administrative activities.

Operational division members engaged in purely administrative work would be transferred back to the operational division.

Civilians would take their place. The programme was also applied to retired members employed as temporary workers. They were given the opportunity of transferring to civilian posts.
Labour ruling expected today

Pretoria. Cabinet is expected to settle the two-year dispute between Cosatu and the SA Agricultural Union (SAAU) over the extension of the Basic Conditions of Employment Act to farming at its meeting in Cape Town today.

Cosatu and the SAAU were given until today to reach a consensus on the content of the Act.

As legislation now stands, the Basic Conditions of Employment Act will grant farm workers the right to strike.

The SAAU says strikes could cause chaos during critical farming periods, while Cosatu says farm workers are entitled to the same rights as others.
Cosatu anger as farm labour law ruling is delayed

SHARON SOROUR
Labour Reporter and Sapa

TENSION over extending the contentious labour law to the country's 1.2 million farmworkers was heightened when the Cabinet failed to make a decision on when to apply the Basic Conditions of Employment Act to agriculture.

Manpower Minister Mr Leon Wessels was obliged to present the Cabinet with a progress report on the labour legislation at its weekly meeting yesterday, even though interested parties had not reached consensus.

There were indications last week that the Cabinet would make a decision at the meeting on the content of the Act as well as how and when it would be applied.

But in a statement yesterday Mr Wessels said no decision was taken by the Cabinet on extending labour legislation to agriculture.

"The extension of the legislation to agriculture will receive the Cabinet's special attention next week," Mr Wessels said.

Cosatu was expecting the government to honour an agreement made with the federation to extend the law to farmworkers by April 1.

The federation is to contact Mr Wessels immediately for an "explanation" as to why a decision was not made yesterday.

"The fact that the Cabinet did not regard this as of sufficient urgency to make a decision is disturbing," Cosatu spokesman Mr Neil Coleman said.

"We understood that April 1 was the deadline."

Last-minute talks between the powerful farmers' union, the SA Agricultural Union, and Cosatu to reach consensus on the issue and settle long-standing differences last week ended in "irreversible" deadlock.

Cosatu is expecting the Labour Relations Act and the Wage Act to be extended to agriculture by the end of the parliamentary session.
Farm labour law delay surprises Cosatu

CAPE TOWN — The Cabinet’s move to defer its decision on labour laws for farm workers came as a surprise to Cosatu, which expected the Basic Conditions of Employment Act to be implemented by today, Cosatu spokesman Neil Coleman said yesterday.

He was reacting to Manpower Minister Leon Wessels’s statement that the Cabinet had not decided on the issue yesterday. Wessels said the extension of legislation to agriculture would receive Cabinet attention next week.

In terms of Cosatu’s agreement with Wessels on November 6, the Act would be extended to farm workers by April 1, and the Labour Relations and Wage Acts by the end of the parliamentary session, Coleman said.

“The fact that the Cabinet did not regard this of sufficient urgency to make a decision is extremely disturbing.” — Sapa.
**NEWS IN BRIEF**

**Miners resume work**

NORMAL underground work has resumed at Germans' Beatrix Gold Mine. All workers, except for 400 Zulu speakers whom management moved to the St Helena Hostel after they clashed with Pondoro workers, were back on duty on Tuesday.

Gengold spokesman Albert de Beer said a peacekeeping committee of workers and management would monitor the hostel and mine main entrance.

**Film subsidies returned**

THE Home Affairs Department said in Pretoria yesterday that film companies which misappropriated government subsidies had paid back more than R1m. Some companies, however, still faced criminal charges.

**'Last post' sounds**

THE SA Defence Force's first refresher training course took place at Cape Town Castle yesterday when about 400 Western Province Command members were bid farewell to the strains of Auld Lang Syne. Nearly 6 000 SADF personnel have been refashioned recently.

The SADF budget has been slashed by more than a third in the past five years.

**'Call up jobless only'**

THE unemployment should be called up for national service to combat crime and violence and unrest who instigated labour unrest should be held criminally responsible, SA Iron and Steel Union manager Nic Gellers said yesterday.

The suggestions are part of a security and commerce plan the AWB and the union want to discuss with President F W de Klerk.

**Employment Act**

**WR REPORTED incorrectly yesterday that "As legislation now stands, the Basic Conditions of Employment Act will grant to farmworkers the right to strike." The Act does not deal with strikes.**

**Talk of VW layoffs 'premature'**

VW SA said yesterday it was too early to say it would be retrenching more than 2 000 workers this year.

But up to 1 000 workers were in danger of being laid off in the near future.

VW human resources director Brian Smith said 900-1 000 jobs at the Uitenhage plant were "currently under review" because of a sharp drop in exports and a declining local market.

Nissan national organiser Gavin Hartford said on Tuesday the car manufacturer had proposed rationalising 2 720 of its workforce this year.

VW said talks of staff reduction were "premature" and dependent "on the impact of the recent Budget on the local market, the outcome of various export orders currently under discussion and the success of the new Golf and Jetta range."

Smith stressed the company would try to "preserve redundancies through voluntary packages offered to all employees, early retirements, outsourcing and natural attrition."

He said VW SA was renegotiating a contract to supply Jetta to China.

The future of workers involved with exports to China would depend on the outcome of the negotiations and on local market conditions.

**Putco, Sabela pledge not to raise fares**

PUTCO and the SA Black Taxi Association (Sabela) fares will not increase when fuel prices go up tomorrow.

Putco MD Jack Yasser said yesterday the bus company would absorb the increase of 15c/l on diesel for three months. Sabela also said it would not increase its fares and was negotiating with the Mineral and Energy Affairs Department for a "special consideration" for taxis.

Yasser refused to say how much it would cost Putco to absorb the increase. "We are so close to our annual increase on July 1 that we did not feel it necessary to raise fares now."

Sabella public affairs manager Cyprian Lebese said the organisation had given Mineral and Energy Affairs "a few options". The taxi organisation expected a reply today.

Postal tariffs and suburban train fares went up at midnight last night and petrol will cost 15c more at the coast, and 16c/l more in the interior.

Postal tariffs will cost an average of 30% more. A stamp for a standard letter will cost 45c from today.

Suburban train fares will cost an average of 9.75% more, but the SA Rail Commuter Corporation has assured its customers that there will be no further fare increases this year.

Saps reports that cheaper dialling times for overseas telephone calls will be introduced today.

Telkom said the standard rate to more than 100 countries would drop by about 7% and the new off-peak rate would be up to 20% cheaper than the standard rate. But VAT on calls would increase to 14% on April 7.
Cosatu surprised by delay on farms law

THE cabinet's decision to defer its decision on labour laws for farmworkers came as a "bolt out of the blue" for Cosatu, which expected the Basic Conditions of Employment Act to be implemented by today, Cosatu spokesman Mr Neil Coleman said yesterday.

He was reacting to manpower Minister Mr Leon Wessels's statement that the cabinet had not decided on the issue at its regular meeting yesterday.

Mr Wessels said agriculture legislation would receive special cabinet attention next week.

Mr Coleman said Cosatu would contact Mr Wessels immediately for an explanation.

Cosatu's weekend campaigns conference had resolved to campaign for farmworkers' rights. If an agreement ended in deadlock or was broken, action would follow, he said. — Sapa
MI agents infiltrated IFP — MP

Agents were used against the ANC:

By Ismail Lagardien
Political Correspondent

GOVERNMENT was still using Military Intelligence to infiltrate its political opponents and had placed agents provocateurs in the administrations of homelands that were friendly with the ANC, Parliament has heard.

The DP MP for Umbhangla, Mr Kobus Jordaan, told Parliament on Wednesday that the covert operation had started during the ’80s when it had relative success.

The programme was still active, he said.

Jordaan said he had anonymously received a “package of information” detailing the placement of certain people, notably Mr Rowan Cronje of Bophuthatswana and Mr Walter Fellgate of the Inkatha Freedom Party, in homelands that were hostile to Pretoria.

Cronje was first placed in Ciskei, after which he was “sent” to Bophuthatswana where he was an “absolute success.” Success was also achieved in KwaZulu, where it is alleged, Fellgate, a member of the IFP’s central committee, had managed to bring Chief Mangosuthu Buthelezi back from closer co-operation with the ANC and towards Pretoria.

Jordaan named General Tieme Groenewald, former secretary of the State Security Council, as the person behind the strategy.

Jordaan said the State had also paid Professor Albert Blaustein, an American constitutional expert, to write constitutional proposals for Mr John Gogotya’s Federal Independent Democratic Association. He spoke during the Budget Debate and defended a question he had put to President PW de Klerk last month on the placement of agents in opposition parties.

De Klerk was kept informed of developments, he added.

Cosatu warns of walkout

Laws for farm workers cause rift:

THE Congress of South African Trade Unions has threatened to review its participation in negotiation forums with the Government following the Cabinet’s decision to defer the promulgation of labour laws for farm workers.

“Cosatu is extremely disappointed and angered by the turn of events. This move makes a mockery of the entire negotiations process,” the union said yesterday.

The congress was reacting to Minster of Manpower Leon Wessels’ statement that the Cabinet had not decided on the issue of basic rights for farm workers at its regular meeting on Wednesday. Wessels gave the assurance, however, that the extension of legislation to agriculture would receive special attention at a Cabinet meeting next week.

Cosatu said in terms of an accord signed by Wessels and Cosatu general-secretary Jay Naidoo on November 6, the Basic Conditions of Employment Act for farm workers would be promulgated by April 1.
Cosatu warning on farm workers

JOHANNESBURG.—Cosatu has threatened to review its participation in negotiating forums with the government following a cabinet decision to defer promulgation of labour laws for farm workers.

"Cosatu is extremely disappointed and angered by the turn of events. This move makes a mockery of the entire negotiations process," the congress said in a statement yesterday.

It was reacting to Minister of Manpower Mr Leon Wessels's statement that the cabinet had not decided on the issue of basic rights for farm workers at its regular meeting on Wednesday.

Mr Wessels said the extension of legislation to agriculture would receive special attention at a cabinet meeting next week.

Cosatu said that in terms of an accord signed by Mr Wessels and Cosatu general-secretary Mr Jay Naidoo on November 6, the Basic Conditions of Employment Act for farm workers would be promulgated by April 1.

"The agreement to extend basic rights to farm workers was in fact made in the Laboris Minute, signed in September 1990. Three years later farm workers are still denied basic rights such as sick leave, paid leave and limitations on working hours."

Cosatu said it had a written undertaking from the Department of Manpower's director-general that recent discussions between Cosatu and the South African Agricultural Union would in no way jeopardise the promulgation of the BCEA on April 1.

If nothing came of next week's cabinet meeting it would have to conclude that any agreements reached in talks with the government could receive the same treatment.

"The national office-bearers will thus be forced to recommend to our executive committee that it reviews Cosatu's participation in the various negotiation forums where we are present." — Sapa
No progress on farm law

Minister Leon Wessels failed to break a deadlock over the extension of legislation to farmworkers this week.

Last week he told the Congress of South African Trade Unions and the South African Agricultural Union that he would have to end the logjam in their two-year talks by Wednesday, which is 24 - 7/4/13. But the cabinet did not have time to debate the issue this week. It will give "special attention" to the issue next week.
Farm strike rights ‘explosive’

Own Correspondent

PRETORIA. — The Transvaal Agricultural Union (TAU) has warned that the government will risk an explosive situation if it gives in to Cosatu by incorporating the right to strike into the Basic Conditions of Employment Act. At its meeting last week the government was to have decided on the application to agriculture of the Basic Conditions of Employment Act as well as the Labour Relations Act and the Wage Act.

Nothing was decided and Friday’s meeting with the SAAU was “final background” for a decision expected on Wednesday.

Mr Bruwer said farmers would not stand by idly if farmworkers were given the right to strike. He claimed Cosatu represented less than 1% of the country’s 1.5 million farmworkers and therefore had no right to organise on farms.

He criticised the SAAU for submitting an alternative proposal to the government that acknowledged the right to strike.

Mr Bruwer warned the government that the overwhelming majority of white farmers opposed the right to strike.
Farm labour law decision likely today

SHARON SOROUR
Labour Reporter

The government is expected to make a crucial decision on extending contentious labour legislation to farmworkers at its weekly meeting today, after it overstepped a deadline last week in terms of an agreement with Cosatu.

At its meeting last Wednesday the Cabinet failed to decide on when and how to apply the Basic Conditions of Employment Act to the country's 1.2 million farmworkers.

Cosatu has warned that if nothing comes of the meeting today, it will be forced to conclude that any agreements reached in bilateral or multilateral forums with the government could receive the same treatment.

The federation said it was "extremely disappointed and angered by the turn of events", saying the move "made a mockery of the entire negotiation process".

Manpower Minister Mr Leon Wessels signed an accord with Cosatu general secretary Mr Jay Naidoo last November in which Mr Wessels committed himself to promulgating the Basic Conditions of Employment Act to farmworkers by April 1.

Cosatu said it was "inconceivable that at this late stage, after the accord was signed last year, that the Cabinet has not yet approved this agreement".

"If the government can't stick to its accord with Cosatu, where and when else will they not carry out their commitments?" the federation asked.

Cosatu also threatened to review its participation in negotiation forums.

"The agreement to extend basic rights to farmworkers was in fact made in the Laboria Minute, signed in September 1990. Three years later farmworkers are still denied basic rights, including sick leave, paid leave and limitations on working hours."

Cosatu said all "democratically minded South Africans" wanted to see basic rights granted to farmworkers and it was only the powerful white farmers' union, the SA Agricultural Union, which opposed this.

The two parties have been at loggerheads over extending legislation to farmworkers and last-minute talks held recently to resolve longstanding disputes over the laws ended in "irreversible" deadlock.

Cosatu said it had a written undertaking from the director-general of the Department of Manpower that its recent discussions with the SA Agricultural Union would in "no way" jeopardise the promulgation of the Act on April 1.
Better deal for farm workers

By Kaizer Nyatsamba
Political Correspondent

In a major move for South African farm workers, the Government yesterday decided to extend the Basic Conditions of Employment Act (BCEA) to people employed in the agricultural sector on May 1. Manpower Minister Leon Wessels announced yesterday.

In a statement released by his office, Wessels said the Act—which was hotly opposed by the South African Agricultural Union (SAAU) after it was debated and passed by Parliament last year—was a result of "long-continued deliberations and consultation." He said all the major parties had the opportunity to present evidence to the relevant public committee which evaluated the Act in detail before submitting it to Parliament.

The implementation of the Act, which ends more than two years of wrangling and eventual deadlock between the SAAU and the Congress of South African Trade Unions, makes provision for maximum, daily and weekly working hours for farm workers, their payment for work done on Sundays, and for annual leave and sick leave.
Govt opts to extend labour law to farms

PRETORIA — The Cabinet had decided to extend the Basic Conditions of Employment Act to the agricultural industry, Manpower Minister Leon Wessels announced yesterday.

The Act, with certain amendments, will be promulgated immediately and implemented from May 1. It will provide for maximum daily and weekly working hours, lunch hours and payment for Sunday work, as well as leave and sick pay.

To take account of the seasonal nature of the industry, legislation would permit the normal 48-hour week to be extended to 52 hours at peak times in the farming cycle such as planting and harvesting.

Wessels indicated that, in addition, administrative exemptions could be granted to the working hours law.

Wessels said it was hoped the door would now be opened for further discussions on the Wage Act and the Labour Relations Act and on the possibility of one consolidated labour Act for agriculture.

He said it was important for farm labour legislation that guidelines be created which took cognisance of the specific conditions in the industry.

Cosatu spokesman Neil Coleman said the new measure would give farm workers rights as workers for the first time — in opposition to the “serf-like existence in what was a feudal system.”

However, farm workers still did not enjoy organisational rights to ensure their rights were enforced in legislation.

Coleman said the said test would come when the Labour Relations Act and the Wage Act were extended to them. He expected this to happen before the end of the current parliamentary session.

SAAU president Boet Fourie said his organisation would accept Cabinet’s invitation to negotiate further on one consolidated Act for agriculture, including the issues of wage specifications and the right to strike. The union was disappointed that working hours were not incorporated in the Act but Wessels’ offer to regulate variations in working hours through exemptions had possibilities.

Annual leave has been fixed at 14 days and sick leave at 30 days over a three-year cycle.

Wessels stressed that the implementation of the Basic Conditions of Employment Act would not affect the SAAU’s negotiations on a consolidated Labour Relations Act.

The amendments to the Basic Conditions of Employment Act were also aimed at a clearer definition of temporary and casual workers, simplifying regulations and raising farm workers’ standards.

Farm workers...
1,2 m farmworkers to get labour rights

SHARON SOROUR
Labour Reporter

HISTORIC reform will dramatically alter the working lives of South Africa’s 1.3 million farmworkers when a far-reaching labour law is applied in May, following a major Cabinet decision on employment practices in agriculture.

Manpower Minister Mr Leon Wessels announced yesterday that the first of three labour laws, the Basic Conditions of Employment Act, would be promulgated immediately and implemented on May 1.

Mr Wessels emphasised in a statement that the decision to implement the Act was made after extensive deliberations and consultations.

The Act provides for minimum daily and weekly working hours, payment for work on Sundays as well as leave and sick leave.

The Cabinet decision has been hailed as a breakthrough by the Congress of South African Trade Unions (Cosatu), but has had a mixed reaction from the white farmers’ union, the SA Agricultural Union (SAAU).

Mr Wessels hoped the implementation of the Act would “open the door” for further deliberations on the Wage Act and the Labour Relations Act or one consolidated Labour Act for Agriculture.

Noting the SAAU’s concern about their bargaining position regarding the Wage and Labour Relations Acts— as well as one consolidated Labour Act— being affected when the Act was implemented, he said “The Cabinet has made its position clear that the implementation of the Basic Conditions of Employment Act will not affect the SAAU’s further deliberations with the government on wage agreements, the right to strike as well as one consolidated Labour Act.”

Reacting to the announcement, SAAU president Mr Boet Fourie said the union hoped that “further handling of the matter would result in a single labour law for agriculture,” and the SAAU would take up the Cabinet’s invitation to negotiate further for one consolidated law for agriculture, wage specifications and the right to strike.

Mr Fourie said the union was disappointed that “the fluctuation of working hours” had not been incorporated in the Act, and that further amendments had not been made before the Act’s implementation.

However, Cosatu welcomed the “long-overdue” legislation as an “important breakthrough in recognising farmworkers as full industrial citizens, as workers with rights, rather than semi-feudal serfs, as in the past.”

“It sends an important signal to the hundreds of thousands of farmworkers and their families that the days of ‘baasskap’ on the farms are drawing to an end,” Cosatu said.

Cosatu said that, for the first time, farmworkers would be protected, but the ability to fully implement and defend these rights would be secured only once organisational rights, contained in the Labour Relations Act (LRA), were extended to farmworkers.

Mr Wessels said the Cabinet had amended the Act to simplify regulations on Sunday work, to regulate inspections by the Department of Manpower and to further define the definition of temporary and casual workers.

Mr Wessels said the Department of Manpower would hold seminars in different regions, write to each employer and hold discussions on local and regional level with farmers.

Any inquiries could be made to Dr Robus van Zyl on (021) 461 6930 or (021) 439 1794.
Farmworkers to be covered soon

The Basic Conditions of Employment Act will be extended to farmworkers on May 1, Minister of Manpower Mr Leon Wessels said yesterday.

The Cabinet decision to implement the Act ends more than two years of wrangling and eventual deadlock between the South African Agricultural Union and Congress of South African Trade Unions.

Wessels said the implementation of the Act would not affect the SAAU's approaches to the Government over wage agreements, strike rights and a consolidated labour Act for the country's 1.2 million farm workers.

The decision to promulgate the Act immediately was taken at a Cabinet meeting yesterday.

Wessels said the Cabinet had reaffirmed the importance of labour legislation for agriculture, with a view to creating practical guidelines that took into account the specific conditions of the sector.

Commentary on the application of the Wage and Labour Relations Acts to farm workers would be discussed between the main role players. It was hoped that maximum support could be achieved for practical guidelines to be introduced in the current Parliamentary session.

In terms of the Act, farmworkers will have legally set maximum working and lunch hours, payment for work on Sundays and sick and holiday leave for the first time.

Farmers would also be advised how to apply for exemptions during critical periods. — Sapa
New SABC board: Procedure approved

THE government announced last night that agreement had been reached on procedures to appoint a new SABC board. A panel of four judges and four senior lawyers would appoint the new board, the Minister of Home Affairs, Mr Dante Schutte, said. President PW de Klerk had invited Justices Schabert and Mahomed, ex-Justices Trengrove and Viljoen, Mr Louis Skweyiya SC, Mr SK Ndlovu, Mr N Erasmus and Ms Lillian Boqa to be the panel. — Political Staff, Sapa

Protection for farmworkers

BY ANTHONY JOHNSON
Political Correspondent

FARMWORKERS will be protected by labour legislation for the first time from May 1 — Workers' Day

The cabinet decided yesterday to extend the Basic Conditions of Employment Act to South Africa's 1.5 million farmworkers.

'Top government sources said the same legislation would be extended to the country's 800 000 domestic workers — the last group not protected by labour legislation — during the current session of Parliament.

The act makes provision for worker rights, which include maximum daily and weekly working hours, lunch hours, payment for work on Sundays, as well as leave and sick leave.

However, issues such as the right to strike and minimum wages will fall under the Labour Relations Act and the Wages Act — both of which are still being negotiated with Cosatu and the SA Agricultural Union (SAAU).

The breakthrough in workers' rights comes after a year of intense haggling between the government, SAAU and Cosatu. The major stakeholders did not reach consensus on the rights to be extended to workers but the government decided that the process could be delayed no longer.

Cosatu yesterday hailed the extension of the act to farmworkers, saying it was a long overdue step, reports Sapa. "However, the ability to fully implement and defend these rights will only be secured once organisational rights, contained in the Labour Relations Act, are extended to farmworkers," it said.
About 1,5-million farm workers better off

ABOUT 1,5-million farm workers would benefit from government's extension of the Basic Conditions of Employment Act to the agricultural sector, announced last week.

Farm workers would now work a 48-hour week and be entitled to sick leave and paid holidays, among other benefits.

The announcement did not resolve the deadlock between Cosatu and the SA Agricultural Union regarding a minimum wage for farm workers and the right to strike, which are governed by the Wage Act and the Labour Relations Act respectively.

A Centre for Rural Legal Studies statement said the granting of these basic rights was a "historic breakthrough" and an important step towards "meeting international standards in recognition of worker and human rights."

However, it also called on government to honour its commitment to implement the Wage Act and the Labour Relations Act in this year's parliamentary session.

The Farmworkers Research and Resource Project welcomed the decision, but it was concerned about "threatening remarks" made by some farmers after the announcement.

- The Manpower Department should "give urgent consideration to the question of enforcement of the new conditions", it said.
Rights battle begins

By Diane Coetzee

THIS legislation may be through but the work is just beginning.

Last week, the country's 3.3 million farmworkers were granted basic rights under the Basic Conditions of Employment Act (BCEA), the culmination of years of struggle by workers and their organizations for protection against some of the worst abuses this country's labour force has suffered.

However, say organisations involved in farmworker rights, only a concerted education campaign will make this legislation effective for farmworkers.

Education organiser of the Stellenbosch-based Farmworkers Support Committee (FSC), Mr Paul Endley, said: "The law by itself means nothing.

"We need to intensify the education programme we implemented some time ago to ensure that every farm worker is aware of his or her rights at every level, and knows what to do and where to go if they are mistreated in any way or subjected to unfair labour practices."

The urgent need for education of both workers and farmers was also emphasized by the Centre for Rural Legal Studies (CRLS) in Stellenbosch.

CRLS spokesperson Mr Ben Scherman said their education programme, which was already underway, would run for at least two years. Farmers and workers have been targeted for education.

Until now, education has been a ticky issue.

Organizations like the FSC have had very limited access to farms - on many occasions organizers have faced armed farmers in the course of their work. Meetings have also often been conducted in a very clandestine way.

"Hopefully, the new legislation will make it much easier to organize meetings on farms," the FSC's Endley said.

In the past, the FSC - which has well over 3,000 members in areas including the Caledon and western Cape - has not been able to disseminate information with ease except on farms where they have access to, among others, the Malan brothers' farms, Vergunspruit and the Blomberg sisters' farm, Joubertina.

We support the process for peace and democracy in South Africa.

CHRIS HANI'S DEATH

We mourn the tragic loss of Chris Hani who strove for Justice and righteousness. He was one of the greatest leaders of our South African nation.

The sinister and repugnant way of his death has shocked the South African society and leaves us so much poorer.

We extend our deepest sympathy and condolences to the Hani family, his friends and colleagues.

Furthermore we detest violence of any kind and from wherever source.

Among the rights granted to farmworkers are:

- Every employer must post a summary of the BCEA on a notice board where workers can read it.
- The maximum ordinary working week is 48 hours. A farmer may not allow a worker to work more than 48 ordinary hours a week without paying overtime.
- Overtime is voluntary and workers must be paid for it.
- Piece workers must get a wage that is at least as much they would normally earn in a day's work.
- Sundays should be a rest day. Payment for Sunday work is higher - at least double pay for the time they work.
- Most farmworkers must get two weeks' paid leave a year, and seven paid public holidays.
- Farm workers who are too ill to work must get their usual payment.
- Workers cannot simply be dismissed and must be given proper notice of wrongdoing.
Aspects of labour relations under review

Stellenbosch law professor Barney Jordaan said only the broadest collective bargaining rights should be enshrined in a Bill of Rights to limit the role of judges in policy decisions concerning labour relations.

Jordaan said there was already so much uncertainty in Industrial Court decisions that increasing powers vested in civil law practitioners would add to the unpredictability of the legal process.

He said the incorporation of a Bill of Rights into the constitution would not have a major effect on the labour relationship as this was regulated by the Industrial Court, which was basically a court of equity.

Jordaan said the court tended to use human rights considerations and international labour standards in reaching its decisions and labour jurisprudence was infused with these concepts.
LABOUR  The extension of the Basic Conditions of Employment Act will benefit farm workers

May Day joy over farm Act

TAKALANI MADIMA of the Centre for Applied Legal Studies, University of Witwatersrand, focuses on the minimum conditions of employment of agricultural workers now protected by law

This year’s Worker’s Day is not only the day the ANC and trade union alliance launches its mother of all rolling mass action against the Nationalist Government and recalcitrant employers groups

It is also the day agricultural workers’ right to decency comes into being. The Basic Conditions of Employment Act will be extended to the agricultural industry from May 1

The Basic Conditions of Employment Act makes specific provision for, among others, maximum daily and weekly hours, overtime, Sunday and public holiday work. These are working conditions that most of us take for granted but which were denied farm workers for a long time

The Act prohibits employers from working employees more than 46 hours in any week. This prohibition will no doubt be a boon to the farmers. However, there are administrative exemptions to the working hours law in the agricultural sector in order to accommodate the seasonal nature of the industry

Farm Workers will for the first time in South African labour history be able to be paid the legal rate for working on Sundays and public holidays. Overtime work-rate is fixed at not less than ordinary time plus a third an hour

Meal intervals of farm workers will be legally protected as the Act makes provision for the maximum time of not less than one hour in any five hours worked. This break has to be allowed to workers even where they are not partaking of a meal. Failure on the part of the employer to observe the provisions of the Act can result in a criminal prosecution

Minimum wage

The Act does not, however, make provision for the enforcement of a minimum wage in the industry. Minimum wages are regulated by the Wages Act, which for now does not apply to farm workers, although the matter is still under discussion between the labour movement, the Government and the farmers organisations

The Manpower Department is a Government arm that is charged with the responsibility of ensuring that the employer complies with the conditions of employment set out in the Basic Conditions of Employment Act

Each local Manpower Department has its own designated inspectors who perform specific functions which include among others, the right to enter without previous notice, and ask at reasonable times, any premises used by an employer, and question any person therein on any matter which relates to any provision of the Basic Conditions of Employment Act

The inspector may have to examine any books, in this case, pay and time sheets, or any other documents and demand explanation on any entry on such documents

If, in the opinion of the inspector, entries to documents indicate that an offence has been committed, he will seize such documents or books for use as evidence in a subsequent criminal trial of the employer

Although the inspector has the right to make unannounced routine inspections, empirical research indicates that the majority of these cases are triggered off by complaints made to the Department of Manpower by the workers themselves

From May 1 farm workers, who for example have not been paid their wages or overtime or leave pay will be able to approach their local Manpower Department and report the matter to the inspector

The inspector will then demand an audience with the employer Research again shows us that the majority of employers do not usually dispute the worker’s claim. This will still have to be seen in the agricultural sector

Where however the claim is disputed, the inspector will seek further clarification from the worker and investigate the issue further. This can include the actual summoning of the employer by the inspector and failure to comply has the effect of contempt, although a warrant for his arrest cannot be issued.

Directive

The failure, refusal or neglect to comply with the inspector’s directive is a criminal offence which carries a fine of not more than R1 000 or imprisonment for a period not exceeding 12 months or both

It is only after he is satisfied that the employer has a case to answer that he will be summoned via the industrial criminal prosecutor’s office to appear in the industrial criminal court.

There will be no doubt about the efficacy of the implementation of some of the provisions of the Act in remote and conservative areas where the inspector attends weekly braais with the local farmers

Graft will also prevent the bringing to book of erring employers. There is however little doubt that the majority of farm workers will benefit from the extension of the Act of their sector
Approval of public service Bill 'likely to provoke clash'

PRETORIA — The passing of the Public Service Labour Relations Bill in Parliament was likely to lead to a major clash between government and public service workers over a 5% pay hike, senior public servants said last week.

When the Bill was passed — which would probably be during the current session — government workers for the first time would have "real muscle" in bargaining for pay and service improvements.

The Bill provided for negotiations up to arbitration. Some workers in "nonessential" services would have the right to strike in support of demands.

The Bill, which had passed a first reading in Parliament, was with a parliamentary committee which had been hearing representation on its content from interested parties, including Cosasa.

Earlier last week the public service said it wanted the 5% increase to be extended to allowances.

Caucus spokesman Anton Louwrens said President F W de Klerk's "bad faith" display in cutting short negotiations — which had been in progress for months — with the Commission for Administration remained a major grievance.

Last month De Klerk bluntly told the Teachers' Federal Council government would not back on the 5% pay increase.

The TFC was pressing National Education Minister Piet Marais to agree to a new bargaining mechanism for teachers.

The Medical Association of SA had registered its dissatisfaction with the fact that the allowances of doctors in government service would remain frozen.

Their salary increases amounted to 3.7%.

Thus, Masa said, was totally unsatisfactory, especially the shortage of doctors in state and provincial hospitals.
Policy makers need a new body of industrial relations

**Jeremy Baskin**

Employer bodies able to look at the big picture

The flip side of this problem is the lack of union centralisation. Even the strongest federation, Cosatu, lacks the muscle to enforce difficult decisions. Constitutional and financial power is vested with affiliates, which jealously guard their independence.

Could the union movement agree to a plan which promoted one industry at the expense of another? Cosatu and Nactu might agree, say, that mining is a waste of resources and should be closed. But what would the Mossman workers and their unions say with their jobs on the line?

Fourth, there is no agreed system of plant-level governance. Some companies recognise shop stewards, others do not. Some stewards have extensive rights; others have nothing. A few firms grant majority unions exclusive representative rights. Most don't. Some companies lack non-unionised workers with little voice. Others actively encourage their own employer-employee channels, frequently as a way of bypassing unions.

On both sides of the industrial relations fence it is agreed that the plant level is the crucial interface. But the absence of a coherent system encourages adversarialism and sectarianism. Each side must be on its guard—protecting its backyard and always on the lookout for attempts to bypass the union structure.

Without a strong, well-defined system of industrial relations (from national to plant level) the corporatist project is unlikely to deliver. The existing system encourages protectionism, short-sightedness and needless conflict. Grafting a corporatist head onto an Anglo-Saxon industrial relations model may not lead to grief. It is time to review the Wiehahn model of unionism and industrial relations.

**Baskin** is a former unionist and author of Striking Back—A History of Cosatu. This is the first of two articles based on research conducted for the Centre for Policy Studies.
Time to bury the Wiehahn model of industrial relations

By Jeremy Baskin

It is not strange how the old Wiehahn labour dispensation trundles on — at a time when the policies and underlying assumptions of every institution in our society are being questioned. Some changes are being debated, but there is little movement or progress. The basics of our industrial relations system remain largely unchallenged.

SA is moving in a corporatist direction. The national economic forum and other bodies are an attempt, for the first time, to give a meaningful role to organised labour. There are growing attempts to move beyond adversarialism and zero-sum approaches in industrial relations.

The corporatist route is the only realistic one. How else can we hope to tackle socioeconomic problems, restructure our economy, increase productivity and competitiveness if not by involving all key stakeholder players? But there are many obstacles, not least the existing industrial relations institutions and system.

The time has come to abandon the Wiehahn model. Current debate revolves mainly around amending the existing Labour Relations Act; enhancing the role of the national economic forum; and extending social partners, such as farm workers and others, the extent to which international conventions need inclusion, and the need to consolidate the Act to ensure it is clear, comprehensive and to the point.

If we succeed in this, the understanding between the key stakeholders will improve. Institutions that are not working for the benefit of all need to be restructured.

Secondly, the collective bargaining framework requires a thorough overhaul. But there it will remain a source of tension and instability. This means working towards a new and better framework that encourages flexibility and innovation.

In addition, centralised bargaining frequently has been the source of conflict and has prevented companies from reaching agreement. It often encourages a widening gap between leaders and members, and for that reason it is time to reconsider the role of the unions.

Thirdly, a defined system of plant-level governance is needed. This will require strong arguments for decentralised decision-making. But the key is to maintain a balance between the two. The challenge is to develop a system that works for all parties.

In conclusion, the Wiehahn model is no longer sustainable. It is time to move forward and find a more effective and sustainable approach to industrial relations.

Baskin, author of Striking Back: a History of Cosatu, is a writer and consultant in the fields of labour and development. This is the second of two articles based on research.
Unions call for end to income ceilings

THE Federation of SA Labour Unions (Fedsal) yesterday resolved to apply to the National Manpower Commission for the equalisation or abolition of income ceilings in three major Acts regulating labour relations.

Speaking at the federation's annual conference, president Johan du Plessis proposed that salary ceilings in the Acts either be abolished or one common ceiling be set and reviewed annually.

Du Plessis said employees could be covered by one or more of the Acts and many moved into and out of the legislation's scope as a result of inflation-linked annual wage increases.

The lowest ceiling is that placed in the Basic Conditions of Employment Act — ranging from an annual income of R27 000 in rural areas to R31 800 in major metropolitan areas.

In the Workmen's Compensation Act the ceiling is an annual income of R45 084 which may be extended by employers to cover higher earners. Finally, the Unemployment Insurance Act imposes a ceiling of R38 168 per annum for contributors.

Du Plessis said these different levels led to inequality of treatment, confusion and economic hardship.

Speaking at the same conference, National Manpower Commission chairman Frans Barker said he did not believe legislated affirmative action programmes would redress the inequality of opportunities in SA.

He said a more viable approach would be voluntary programmes based on intensive company-run training for those who had suffered from past discriminatory practices.

On the question of industrial councils, Barker said there was an international move away from centralised bargaining. Barker himself was not opposed to the principle of councils as long as they displayed a degree of flexibility on the questions of small businesses and regional differences.

Barker identified three developments in overcoming the obstacles to building social consensus:

1. He said the major role players in the process — organised labour, business and government — had agreed the process was more important than the substance of discussions. Bodies such as the commission were well-placed to help the process since they were representative, acceptable and had mandates to reach agreement within parameters.
Labour law shake-up for public sector under spotlight tomorrow

Cosatu warns of opposition to Bill giving employers 'best of both worlds'
Planting the seeds for peace on farms

The country’s first-ever farm labour law conference looked at how farmers can adapt to the new legislation and build good relations.

By GAYE DAVIS

A STARK choice confronts South African farmers: a future riven with conflict and insecurity, or one where a system is in place which regulates disputes arising with their farmworkers.

This was the strongest message to emerge from the country’s first-ever farm labour law conference in Stellenbosch last week. Convened by the Centre for Rural Legal Studies (CRLS) it came days after the extension of the Basic Conditions of Employment Act to 1,5-million farmworkers.

The conference’s message was not directed at those farmers who gathered at Pocheefstroom recently to bay their defiance of the Act, or any attempts to extend labour legislation to farmworkers. Rather, it was aimed at those farmers who are able to change.

The two days of presentations and debate carried messages for other players in the agricultural arena too. "Chief of these was directed at trade unions, industrial relations experts and labour lawyers: put simply, it was that the nature of farms — producing highly perishable products and dependent on inconstant factors such as the weather and biological processes — called for a different approach to that used in industry. Strategies that worked for trade unions on the shop floor could not be applied wholesale to farms, while industrial relations specialists and labour lawyers would have to develop new skills to meet the complexities of the agricultural scene.

As Johan Hamman, of the CRLS, put it, farms could not be seen as "factories in fields" that could be switched on and off.

This is in no way detracted from the need for collective bargaining on farms, Hamman said. But instead of a rigid labour relations model, agricultural production demanded levels of flexibility to cope with changing market and production conditions.

As Hamman pointed out, it was a simple demographic reality that, once all South Africans had the vote, the majority of rural voters would be farmworkers.

"Unresolved grievances will constitute fertile ground for political mobilisation. Not only will this take labour relations into the political arena, political differences will have an impact on labour-management relations," he said.

For farmers, the message was that labour legislation was neither intended nor constructed to beat them into submission — but rather to set a framework for the regulation and resolution of conflict according to conditions prevailing on specific farms, and which would work to the benefit of both the farmer and his workers.

In some sectors, farmers are ahead of the law-makers. The deciduous fruit industry supports the extension of labour legislation — which, Unifruco representative David Gant told delegates, would largely formalise practices already in place.

In an industry where labour was the largest single production input, economic performance depended heavily on the skills of its estimated 500,000 employees — hence the development of an industry code of conduct adopted a decade ago and expanding corporate social responsibility programmes, Gant said.

The Labour Relations Act, which unions want extended to farmworkers while farmers would rather see a separate act — does not stipulate details of an employment relationship. Instead it provides for structures to deal with conflict. Discussion should focus on making the Act work, rather than whether it should apply to agriculture, Hamman said in his paper.

But making labour legislation work on farms presents the biggest challenge of all. Congress of South African Trade Unions general secretary Jay Naidoo’s claim that the federation had organised 150,000 farmworkers was rebutted by Stellenbosch lawyer Dawie Bosch: "They may be signed up, but are not effectively part of a union which protects and informs them.

Labour legislation could not be extended or enforced without farmers’ participation, Bosch said, and while the Department of Manpower was not fulfilling its monitoring role "even in the cities", the state could not be expected to achieve what farmers and their workers could not.

Keynote speaker Baldemar Velasquez, a former migrant worker who founded the Farm Labour Organising Committee (FLOC) which changed the face of farm labour relations in the American Midwest, offered a way forward.

"Battle to win basic rights for migrant workers excluded from US labour law, FLOC took the creative step of focusing not on the farmers, but the multi-national companies who bought their crop. At the bargaining table, tri-partite agreements between farmers, the companies and workers were hammered out.

It took 25 years of organising, strikes and stand-offs — but migrant workers not only won security but a solid alliance arose between them and farmers, who found their bargaining power with the food companies significantly boosted by the agreements.

This new co-operation, coupled with incentive clauses, that seen productivity soar. "Unequal people are made citizens and empowered around and within the economic institutions that affect their lives, no significant changes of lasting value will occur."

South African agriculture would do well to take his seeds and plant and nurture them.
Labour laws expected to be passed

PRETORIA — Parliament is expected to pass amendments to the Basic Conditions of Employment Act suggested by the SA Agricultural Union before the season ends in late June.

The Act lays down, among others, working hours, and annual and sick leave provisions for farm workers.

The amendments considered vital by the SAAU are clear definitions of "casual workers" and "seasonal workers". An SAAU spokesman pointed out that 40% of farm workers were employed seasonally.

Another amendment is for a simpler and clearer definition of Sunday work.

Organised agriculture, it is understood, is likely to accept the legislation provided the amendments go through.

Meanwhile, discussions between the

SAAU and Manpower Minister Leon Wessels are continuing on the application of the Wage Act and the Labour Relations Act to the farming industry.

The SAAU remains adamantly in its total opposition to the Wage Act and the strike provisions embodied in the Labour Relations Act, and is still pressing for a separate piece of legislation for agriculture.

Government is being tugged in two directions on the issue by organised agriculture, which fears trade unions could abuse both pieces of legislation, and by Conatu, which is demanding that farm workers should have the same rights as workers in other industries.
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New labour Bill under scrutiny

MICHAEL MORRIS and SHARON SOROUR
Weekend Argus Reporters

LEGISLATION extending labour rights to thousands of public servants — including those in essential services — is expected to be finalised early next week and could be passed by Parliament before mid-year.

Amendments are expected, but it is not yet clear whether they will satisfy the demands of Cosatu, one of the key objectors to clauses in the Public Servants Labour Relations Bill in its original form.

Disagreement centres on the definition of essential services, and limitations on their rights — particularly their right to strike.

Parliament's all-party committee on home affairs meets on Monday to decide on amendments to and approve the Bill for debate in Parliament.

Mr Phillip Dexter, general secretary of the Cosatu-affiliated National Education, Health and Allied Workers' Union (Nehawu), believed the present definition of essential services was not "fair".

"In our view, an essential service is any service which, when interrupted, endangers the lives of ordinary people."

Mr Dexter said this meant, for example, that emergency operations at a hospital were regarded as essential, while other operations and medical services which were not "lifesaving" were not essential.

"The same applies to other services, like air traffic control, which is not essential. It might be important for flights to take off on time, but it is not essential unless it threatens national safety."

Cosatu wanted a definition which clearly identified workers in essential services, but which "must also be flexible".

"Something which is essential today might not be essential in a while, and vice versa."

Cosatu is also concerned about the right of workers in essential services to arbitration.

Mr Dexter added that while talks held to clarify the issues were "promising ... we have no guarantees and this is what worries us".

Home affairs committee chairman Mr Patrick McKenzie said the parties represented in the committee were discussing their positions over the weekend prior to the committee's final meeting on the legislation on Monday.
The National Manpower Commission had been asked to take action on the law. The late President, Mr. Nkomo, also stressed the need for a law to protect the interests of workers. He said the law would ensure that the rights of workers were protected and that their interests were safeguarded. He emphasized the need for a law on labour relations that would provide a framework for the resolution of disputes and the protection of workers' rights.
Jobs task group set up

Political Staff

THE National Manpower Commission has been given a host of tasks, including revision of labour legislation, the Minister of Manpower, Mr Leon Wessels, has announced.

Mr Wessels said a task group had been set up to develop a national training strategy because huge sums were spent on training without visible return.

Speaking in Parliament, he said the newly-reconstituted commission would examine, among other things:

- "Modernising" labour laws
- A code for good labour practices
- The establishment of labour standards
- The question of increased productivity
- The principles that would give rise to legal actions in court
- The question of a minimum wage
- Dealing with Aids in the workplace
- Harmonising labour legislation
- Labour-related questions raised by the government's normative economic model
- The ratification of international labour relations conventions
- The effect of not abiding by agreements on collective action
- The political involvement of unions
- Programmes for the unemployed

Sapa reports that Mr Tony Leon (Houghton, DP) told Parliament that industrial councils should be scrapped as they were anachronistic and throttled small businesses.
Non-members in labour council net

By ZILLA EFRAT

The right of industrial councils to extend wage and labour agreements to non-members has been reaffirmed in what is considered a watershed judgement.

The Cape Supreme Court has granted the National Industrial Council for the Iron, Steel, Engineering and Metallurgical Industries (NICSEMI) — South Africa's largest industrial council — an order compelling 12 employers to comply with its agreements.

The 12 refused to contribute to the industry's pension, provident and education and training funds on behalf of their employees.

They also launched counter-applications against the industrial council, alleging defects in its registration, misinterpretations of the Labour Relations Act and lack of representatives of employers on the council.

NICSEMI says the Supreme Court rejected the opposing applications on all counts.

It ordered the main respondent, Photocircuit, to pay all costs. The counter-applications were also dismissed with costs.

In addition, Horst Puschke, acting for NICSEMI, gave the court a written undertaking that he would refrain from initiating or encouraging other people to refuse to comply with the industrial council agreements.

NICSEMI says the judgement has been welcomed by the engineering industry because it confirms the council's important role in regulating the industry collectively through agreements negotiated between employer organisations and trade unions.

Council general secretary David Levy says he is satisfied that the Supreme Court fully countered the challenge against the council.

He hopes the judgement will encourage a more balanced perspective of industrial councils' important role.
New labour rights for domestics

MICHAEL MORRIS
Political Correspondent
and SHARON SORBUR
Labour Reporter

BASIC rights for South Africa's more than one million domestic workers — including leave and limits on overtime — are being entrenched in law for the first time in terms of legislation tabled in parliament today.

This follows steadily increasing criticism of domestic workers, who are often the most vulnerable in the workplace. The Basic Conditions of Employment Act of 1997 now provides for 10 days' leave per year, overtime pay, and other protections.

The law also makes it illegal to employ more than 12 hours a day, and provides for at least 7 hours of rest between shifts.

The drafting of the Bill — which is based on recommendations by the National House of蒙顿和加拿大工会组织—— aims to better protect the rights of workers in the informal sector.
Bill alters public servants’ rights

CAPE TOWN — The new dispensation provided by the Public Service Labour Relations Bill would enable SA’s 420 000 public servants to take part in conflict resolution procedures, the Minister responsible, Sam de Beer, told Parliament yesterday.

It was an exceptional piece of legislation which was the result of negotiations between state representatives and public service employee organisations, he said, while introducing the Bill, Sapa reports.

“Behind us lie two years of intense negotiations, joint drafting and bilateral talks,” he said.

The Bill aimed to democratise the civil service further, establish collective bargaining structures and establish mechanisms to settle disputes. It would improve the position of Public Service Act personnel and create job security, as well as introducing the test of fairness against which all disputes would be measured.

Gordon Thomas (NP Matros steem) said the Bill gave public servants access to the legal world, like the Industrial Court.

Janne Mombberg (KCM Simon’s Town) said a new government would be urged to scrap the Bill. Cosatu had been unable to persuade the NP to extend protection to all workers.

Roger Burrows (DP Pinetown) said the DP wanted to amend the Bill. Service personnel, magistrates and teachers were excluded from the Bill, and the question arose why everyone else had to be caged into a central bargaining chamber.

On this, Burrows and Louis Stoffberg (CP Sasolburg) said medical practitioners should not be granted a separate bargaining chamber.

Medical Association of SA Federal Council chairman Bernard Mandell said in a statement the Bill would leave state doctors without bargaining powers and dispute resolution rights, Gerald Reilly reports.

In a dispute involving finance the employee had to have the support of at least 50% of employees before having access to arbitration. Doctors were a minority among public servants and therefore their chance of obtaining the right to strike over issues affecting them were slight.
CAPE TOWN — Domestic workers’ working hours and leave rights have been defined in a Bill.

The Basic Conditions of Employment Act was tabled in Parliament yesterday after three years of negotiation and controversy.

It provides for live-in domestic workers to work a maximum daily spread of 14 hours.

The ordinary working hours of a full-time domestic worker may, by means of a written agreement by the employer, conditionally be extended by not more than four hours a week.

Meals breaks may be shortened by means of an agreement with the employer. In terms of a memorandum attached to the Bill, a domestic worker who takes care of children, the aged or the sick may not work more than 14 hours’ overtime a week.

A “regular day worker” — as opposed to a casual employee — would be entitled to one working day’s leave and one working day’s sick leave on full pay for every 26 days worked.

Termination of service would require a month’s notice from employers, who would be exempted from keeping records on time worked and pay if written agreement were drawn up with workers.
Domestics bill skirts wage issue

PROPOSED legislation for domestic workers in South Africa has introduced a range of minimum job rights, but has skirted the issue of minimum wages, saying that they should be negotiated between employer and employee.

The Basic Conditions of Employment Amendment Bill, tabled in Parliament this week has not yet been passed and no date has been set for its implementation.

The rights will include a basic 46-hour working week and maximum overtime of three hours a day, or 10 hours a week. In the case of childminders or people caring for the sick, handicapped or frail, this can be increased to 14 hours.

Overtime rates will be “time-and-a-third” in the case of hours worked over the daily or weekly minimum.

Workers will be entitled to paid public holidays on New Year’s Day, Good Friday, Ascension Day, Workers’ Day, Republic Day, Day of the Vow and Christmas Day.

The proposed legislation says an employer has to give the domestic worker at least 14 consecutive days’ leave on full pay for every 12 consecutive months of employment.

Provision is also made for sick leave, and pregnant domestic workers may not work in the four weeks before the expected date of confinement, and for eight weeks afterwards. Sapa
Minimum
pay ‘threat to jobs’

Staff Reporter

Many domestic workers would have been out of a job if a new Bill covering their employment conditions had stipulated a minimum wage, Democratic Party MP Tony Leon said yesterday.

The DP held five meetings in Johannesburg and Sandton at the weekend to inform domestic workers about their rights under proposed new labour legislation tabled in Parliament on Friday.

Leon said yesterday that he agreed with the decision not to bring a minimum wage into the Bill.

Recommended

"If that happened, two-thirds of the people I spoke to could be out of a job," he said.

The Black Sash last year recommended a monthly minimum wage of R769 for skilled domestic workers and R569 for semi-skilled workers.

Black Sash national researcher Marj Brown said there was still much work to be done before domestic workers were properly protected by labour legislation.

Besides the absence of a minimum wage, the Bill makes no provision for unemployment insurance or compensation as a result of injury.

Domestic workers still have no access to recourse through the Labour Relations Act in the event of a dispute with their employers.

Brown said unemployment insurance and compensation for injury could not be introduced at this stage because of difficulties in enforcing payment of contributions by employers.

Some elements of the Bill are:

- A maximum of 46 working hours a week.
- A maximum of 10 hours overtime a week, or 14 hours if the worker is looking after children or the aged.
- Overtime may be worked only by mutual agreement between the worker and employer.
- Fourteen days of annual paid leave, as well as 36 days' sick leave (for six-day-week workers) in every three-year cycle.
- A minimum of one month's notice, or one month's wages.
- Employers must keep written records of hours worked and wages paid, unless the worker has a written contract.

Brown said the Bill allowed more flexibility in the relationship between the domestic worker and her employer than other labour laws.

This was "not such a good idea" since it weakened the worker's protection against abuse by the employer.
COSATU has described the proposed amendment of the Basic Conditions of Employment Act to include domestic workers, as tabled in Parliament last week, as "a victory for all those who have been struggling for basic rights for domestic workers over the past years." (2)

Cosatu said some wording problems and "inappropriate provisions" on working hours existed in the present proposal, but it believed that these could be sorted out. (3)

It said the amendments are largely in line with what Cosatu proposed.

It also called for the extension of the Labour Relations and Wage Acts to domestic workers as present legislation was "very limited" in securing their rights. (4)

Sapa reports that Cosatu said this was the first step in implementing the agreement made between general secretary Jay Naidoo and Manpower Minister Leon Wessels to extend full labour rights to domestic workers by the end of 1998.

Cosatu said it was important that the Bill be steered through Parliament and implemented urgently.

"Although a significant advance, it must be borne in mind, however, that the provisions contained in the Basic Conditions of Employment Act are very limited and way below the standard achieved where workers have organisational rights. (5)

"This underlines the importance of extending the Labour Relations Act and Wage Act to domestic workers and others, including farm workers who have been excluded from protection by these Acts," the Cosatu statement said.
Trio of works explains labour law

LEGAL publisher Juta & Co has released a number of important titles including several new ones, a Guide to South African Labour Law and Rieker's Basic Employment Law. Butternworth's, Juta's rival, was left in the cold, with its labour law volume in Joubert's The Law of South Africa series, curiously absent. The imbalance in the market is now somewhat remedied by Butternworth's publication of the first section of Malcolm Wallis's loose-leaf work, Labour and Employment Law.

The three new works under review have been written for different audiences and with different aims in mind. Wallis's book is undoubtedly the most substantial, intended as an authoritative and comprehensive guide to the field, providing a detailed analysis of the origins, development, and current state of South African labour law. It is a valuable resource for students, practitioners, and anyone interested in understanding the complexities of the field.

Arbitration, Mediation & Dispute Resolution

This book explains the process of arbitration and provides a comprehensive guide to the field, covering topics such as the role of arbitrators, the process of arbitration, and the various types of disputes that can be resolved through this mechanism.

Labour and employment law issues.

Malcolm Wallis's SC is well placed to write such a labour law text. He has vast experience and knowledge of the field, having represented employers, and sometimes employees or trade unions, in many of the major labour disputes presented to our courts for decision.

He provides a comprehensive analysis of the origins, development, and current state of South African labour law. It is a valuable resource for students, practitioners, and anyone interested in understanding the complexities of the field. While labour lawyers are often tempted to describe what the law should be rather than what it is, Wallis is careful to give readers a clear and unbiased explanation of what it is — even when he disagrees with a decision — before he presents his view of how and why it should be improved. His book is accessible with a structure that makes for easy reading. The index is thoroughly useful and comprehensive, and much more specific information would be provided with forthcoming replacement pages.

This is currently perhaps the most comprehensive exposition of South African employment law, a superb book of reference, written in clear prose. Essential for labour lawyers, it is also highly recommended to all who have an interest in the law of employment.

Rycroft & Jordaan have produced an excellent second edition. The book has a less lofty purpose than Wallis's. It is designed to introduce students in particular to the issues of labour law; to cover the individual employment relationship and issues of collective bargaining. Although the facets of labour law are not considered in all their complexity, the book provides an ideal overview. It is the best work of first reference available.

Grogan's book is the first of a series of works on this topic. Like Wallis, he has started with the individual employment contract. This book carefully sets out the state of the law concerning the employment relationship. The second volume will deal with industrial relations or the collective bargaining relationship between employers and workers, and the third is to be a book of law cases and materials, which is sorely needed in this growing field of the law.

The first volume lacks the weight of references which Rycroft & Jordaan provide to support their ideas.

However, Grogan provides a solid basic overview of the state of our employment law with a particularly extensive and helpful index. The work will be of benefit as a textbook to students, particularly students of industrial relations who would not want the rigour of a legal textbook.

The reviewer, who asked not to be named for professional reasons, is a labour lawyer who sits on the industrial court.
Given some meat, rights must be Farm Labourers
Steps to ease delay at Industrial Court

MEASURES to address a serious backlog delaying the hearing of cases by up to nine months have been introduced in the Pretoria Industrial Court.

In his first practice note since his appointment last month, Industrial Court president Adolph Landman said the measures could inconvenience practitioners, the need to work off the backlog was “imperative and overriding.”

A motion court would be established as part of the Pretoria court from July 26 to expedite hearings which did not require the “presiding officer being seized with jurisdiction as regards the merits of the matter.”

“In the case of opposed applications for a determination in terms of Section 40(8) of the Labour Relations Act, parties will be required to hold a proper pre-trial meeting and to file a pre-trial minute with the court three weeks before the date of hearing.”

Landman said this step had been taken as “many cases are withdrawn at the last minute because they only receive the earnest attention of the practitioners involved at a late stage.”

He also proposed that the rules board function as a national advisory committee to enable better communication and feedback on the functioning of the court.

SA fares poorly in health survey

WASHINGTON — Health statistics published in the World Bank’s latest annual development report portray SA in a decidedly mixed light and in several key areas it fares the worst in Africa.

According to the figures, 53% of children aged two to five suffered from stunting — low height for age — due to malnutrition between 1989 and 1990, compared with a continent-wide average of 39%.

The annual incidence of tuberculosis in SA — 250 cases per 100 000 population in 1990 — is also nearly 15% above the African average of 220, and more than 10 times the rate in developed countries.

Many African countries also do a better job, though with considerable foreign assistance, of ensuring that children are fully immunised against diphtheria, whooping cough and tetanus (DPT), and measles.

In SA, 63% of children younger than one received a complete course of DPT shots in 1990-91, compared with 85% in Zimbabwe and 79% in Zambia.

In all, 12 African countries had higher rates.

SA consumes more tobacco — 1.4 kg per capita in 1990 — than other African countries for which there are statistics, but this may be a sign of a relative affluence.

SIMON BARBER

Companics fight minimum wage

UMTATA — A minimum wage regulation implemented by Transkei’s government is being challenged in court by six industrial companies which fear they may be crippled by the new financial burden.

The minimum wage which was announced by Manpower Minister D D Muludzwe in terms of a government notice on May 7, was said to be substantially higher than wages negotiated with unions.

The Umtata Supreme Court was told that the wage determination could result in loss of jobs, retrenchments and closure of certain industries and relocation.

One of the companies said the new wage determination would force it to increase its wages by more than R2.20 m in 1994, and this after having suffered heavy financial losses from four weeks of industrial action this year.

The applicants said they would not be able to afford to offer other benefits to employees such as 12th cheques, overtime and sick leave if they were obliged to grant the increments.

The applicants urged that the matter be dealt with as soon as possible as they would be committing a criminal offence if they did not comply with the determination, but would “suffer severe financial prejudice” if they did.

It was also feared that if the companies could not comply with the provisos it could result in widespread labour unrest.

The six industrial companies employ a total of more than 3 000 workers and all have wage agreements with unions.

Judge C White postponed the application for argument until July 20.
Retrenchment ‘must be a matter of law’

IT WAS time for retrenchment regulation to be removed from the realm of Industrial Court powers into explicit statutory regulation, Wits University’s Centre for Applied Legal Studies’ Prof Paul Benjamin has proposed.

Speaking at the annual labour law conference at Natal University, Benjamin said the Industrial Court was essentially a court of equity and, as such, was perhaps an inappropriate body to set substantive conditions of employment.

This could explain why the court had not ruled conclusively on the issue of severance pay, but had restricted itself to setting preconditions to retrenchment in the form of enforcing sufficient notice periods, consultation and objective selection criteria on employers.

He said there was still much debate on whether severance pay was an appropriate form of compensation.

To date, the court had ruled that in the absence of a clear right to severance benefits, an employer’s decision not to award them could not be deemed an unfair labour practice.

This, Benjamin contended, was the right decision, but for the wrong reason.

Retrenchment ‘must be a matter of law’

ERICA JANKOWITZ

“The real issue is whether the court should deal with interest issues and determining the outcome of economic disputes. The answer doesn’t relieve the economic problems of individuals. We need a substantive substratum of rights contained in legislation and severance pay should be the first on the list,” Benjamin said.

He said not enough thought had been given to the inter-relationship between macro-economic policy and its effect at the micro level on employees.

He thought too much emphasis has been placed on industrial restructuring without taking into account the consequences of realigning production with companies requiring different skills and, often, fewer workers.

To Benjamin, it was labour law’s function to give effect to economic policy in such a way as to attain society’s social objectives — job security, full employment, decent wage levels, and opportunities for reskilling.

However, because of the lack of an active labour policy in SA, setting social objectives had not been the objective of mature debate, he said.

The burden of unemployment always fallen on the employee, in stark contrast to western Europe, where the state bore the brunt, and Japan, where employers were major contributors to social welfare.

He also looked at the issue of insolvency, especially small businesses, and its impact on workers.

Currently, the winding-up of insolvent companies was regulated by the Insolvency Act and not labour legislation, Benjamin said. As such, employees came third on the list of preferential creditors, after legal practitioners and state funds.

Also, protection of employees was limited to three months’ pay to a maximum of R2 000. Benjamin said.

Last year, recommendations were made to the state to reconsider the protection of employee claims and to restructure the preference list, placing them higher than state funds.

Benjamin proposed the establishment of a fund to cover employers’ liabilities to workers after insolvency. He also proposed a restructuring of the Unemployment Insurance Fund to pay workers on short-time or those who have been temporarily laid off. This could shift some of the burden away from employers as it would extend their options by supplementing employees’ pay in times of economic downturn.

This would mean employers could explore more sensible options to cope with recession than labour shedding, Benjamin suggested.

Both were being investigated by the National Economic Forum, Benjamin said.

However, a more active form of regulation was required and should be looked at prior to procedural issues.

He said, at present, unions were reluctant to consider short-time suggestions or job sharing because of the cost considerations for workers.

However, if a fund was established to allow a more equal sharing of the cost, unions might change their stand.

Benjamin said the fund could either consist of employer and employee contributions — as does unemployment insurance — or could be a payroll tax, which would not be out of line with international trends.
Refusal of bargaining rights gives state doctors the needle

SHARON SOROUR
Labour Reporter

DOCTORS at state health institutions were given a bitter pill to swallow when the government, passing a much-maligned Labour Bill for the public service, refused them the right to bargain for better wages and working conditions.

The notion of doctors endangering the lives of the sick by exercising a right not to work is an apparent discord with their image as nurturers of human life.

But were they fighting for the right to suspend their services through strike action? Or were they simply demanding the right to another form of bargaining power and a dispute resolution mechanism to address their own concerns?

The fact is, with the Public Service Labour Relations Act which has just become law, thousands of government-paid doctors are left virtually powerless to do anything to improve their working conditions.

The Medical Association of South Africa (Masa) slammed the Labour Bill as “rigid and shortsighted” and warned that doctors would have no option but to leave the public service.

Masa federal council chairman Dr Bernard Mandell said the government was now in a position to abuse the traditional calling and integrity of the medical profession by doing nothing to improve working conditions, workload and salaries.

“The government is well aware that doctors are legally, ethically and morally bound to continue caring for their patients, regardless of their own circumstances,” Dr Mandell said.

To resign from public service was their only remaining option.

“This will have a disastrous effect on state health care services, which are already barely coping in meeting the needs of the community,” he said.

Doctors who work long hours in overcrowded hospitals are not only leaving the public sector but the country, according to Masa’s profession development director Dr David Green.

The “brain drain” of medical talent was enormous, said Mr Mike Ellis, Democratic Party MP and spokesman on health and a member of the all-party standing committee that debated the Bill before it was passed.

“The majority of doctors who are leaving are white or Indian South Africa is having to import doctors and, basically, they are making a mess of things, not having suitable qualifications or the language ability to do their work properly,” Mr Ellis said.

“At a time when we are losing doctors for political or other reasons, we again fail to give them the recognition they deserve by catering for their needs in this Bill I blame the government 100 percent,”

Masa’s main objection to the legislation is that it offers no protection for the rights and interests of doctors through recognised dispute resolution mechanisms.

Doctors are not necessarily unhappy about being denied the right to strike — the ultimate bargaining weapon, as the medical profession is deemed an essential service.

“As an association we do not believe that doctors should strike, which is different from believing they should have the right to do so,” Dr Green said.
Tentative signs of recession's end

KELVIN BROWN

THE recession was showing some signs of bottoming out but the signs were still not strong enough to indicate a definite end to the downturn, economists said yesterday.

Various indicators had shown some improvement recently with real gross domestic product increasing in the first quarter. This was carried through as mining production, agricultural output and exports had all shown increases in data released over the past few months.

Standard Bank chief economist Nick Czyponka said the current improvement was more of a statistical nature due to the better gold price, the ending of the drought and an upturn in the economies of the US and the UK.

He added, "We are not yet seeing it on the street."

Other indicators that had shown some levelling out included motor car sales, manufacturing output and notes in circulation. Manufacturing production was up since the middle of last year and notes in circulation - an early indicator of higher spending demand - was also better.

Czyponka said a recovery would be visible only when the man in the street felt things were better, which would be reflected in an improvement in spending patterns. "This should occur when job security improves and people have more money in their pockets."

When SA gained greater access to overseas financial markets and the situation on the political front got better the economy should benefit even further, Czyponka said. "Until then the situation is unlikely to show definite signs of improving although there may be some bouncing back statistically."

UL economist Dennis Dykes said although there were some signs of a turnaround it would be difficult to tell if it was just a blip or sustained increase. "The question is whether it will continue or be held to ransom by the political process."

The position of consumers was still not good as disposable income had been knocked by higher taxes and lower wage increases. He said the indicator to watch for was credit extension. "When consumer confidence picks up it affects demand for credit even before GDP."

Old Mutual economist Dave Mohr said the improvement in the primary sectors could suggest a flattening out in the recession later this year.

"In the past all sustainable recoveries in SA usually started with an improvement in exports and the primary sectors."

Agricultural production was good but volatile as it was dependent on the weather while the mining sector was showing signs of improving. There were pockets of evidence that the economy was on the upturn.

Gold and platinum prices had improved, and this carried through to the steel and other metals.

The depreciation of the rand should also help improve exports in these and other areas.

Mohr said the evidence indicated the economy could approach a turn-around this year with a slow improvement next year depending on what happened politically. However, there was little room for growth in the economy given current fiscal and monetary policies.
New labour Act in place from Monday

By Brendan Templeton

Tensions in the looming nationwide municipal strike could reach boiling point when new public sector labour legislation comes into effect on Monday.

The Public Service Relations Act will become effective on the same day that 72,000 municipal workers are scheduled to go on strike.

While the Act allows public sector workers the right to strike, it also prevents "essential service" workers such as municipal employees from downing tools.

The Government yesterday labelled the new legislation as "progressive", but the Congress of South African Trade Unions predicted it would provoke further conflict.

Cosatu spokesman Neil Coleman said several public sector unions, including the SA Municipal Workers' Union, had long been opposed to the Act's "unilateral" introduction.

Coleman warned that Cosatu would make the Act's abolition part of its election campaign.
Cosatu rejects new law

JOHANNESBURG. — The Congress of South African Trade Unions (Cosatu) yesterday rejected the introduction of the Public Service Labour Relations Act, due to come into effect on Monday, saying the government was proliferating and fragmenting the labour relations framework.

There was a need for one labour relations act to cover all workers, public and private, the union said in a statement.

The union criticised the broad definition of essential services and said the limitations on the right to strike were so extensive that in effect public service employees had no right to strike.

The act also went against the recommendations of the International Labour Organisation's Fact Finding and Conciliation Commission, and violated standards laid down by the ILO for public sector workers, Cosatu said. — Sapa
Call to alter Labour Act for new SA

BY ABDUL MILAZI
LABOUR REPORTER

The National Manpower Commission (NMC) has called for urgent amendments to the Labour Relations Act to make the law more relevant to the new South Africa.

NMC chairman Frans Barker said the commission would present its recommendations to the Minister of Manpower on September 6.

He also said he hoped the amendments would be approved at the next parliamentary session in November.

Barker said that the present Labour Relations Act would clash with the planned Bill of Rights.

The recommendations to be tabled before Parliament include the scrapping of the Act's prohibition on trade unions and employers' organisations to join political organisations, the introduction of a code of fair labour practice, the extension of the Act to tertiary-level educators and the redefinition of 'employee' to include dismissed workers.

Other recommendations included the rationalisation and simplification of the Act's statutory dispute procedures to industrial councils and conciliation boards and the introduction of a new and separate section in the Act which dealt only with the determination of labour practice disputes.
Labour Act changes proposed

ERICA JANKOWITZ

PROPOSED short-term amendments to the Labour Relations Act were revealed at the weekend by the employment law working group of the National Manpower Commission. These were the first phase in a long-term project to eliminate anomalies and streamline and modernise the Act by mid-1994.

They included the elimination of clauses which prohibited unions from affiliating to and granting financial and other support to political parties unless a closed shop existed.

This would be in line with "expected amendments to the constitution regarding fundamental rights, including the right to freedom of political choice and association", the manpower commission said.

The amendments also covered the introduction of a fair labour practice code to guide employers and employees and direct the Industrial Court.

The new Act would be extended to cover dismissed workers who disputed their dismissal and those who worked for educational institutions.

A system of precedents would govern labour courts. Unfair labour practice dispute determinations would be covered by a separate section to simplify procedures.

Amendments would also rationalise the Act's interim relief mechanisms and simplify formalities for instituting statutory dispute procedures.

It was proposed that the manpower commission be renamed the national labour commission.

Comment on the proposed amendments should be sent to the commission's offices by September 6.
Deal struck on draft farm labour laws

DIRK VAN EEDEN

SAAU deputy director Buhle Khumalo

PRETORIA - The SA Agricultural Union and Cosatu have reached a

collective bargaining agreement on draft farm labour laws

said last weeks' closed session about three hours.

The draft agreement, which was submitted to the

SA Agricultural Union and Cosatu, was based on

the Basic Conditions of Employment Act.

The agreement contemplates a "no strike" for

18 months and a "no lockout" for 12 months

and a minimum wage of R1400.

"This agreement is expected to prevent strikes and lockouts and

will not be enforceable," said Cosatu's national chairman, Buhle

Khumalo.

The agreement contemplates a "no strike" for 18 months and a "no

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Farmworkers’ rights agreed

PRETORIA — The South African Agricultural Union (SAAU) and Cosatu have reached agreement on draft legislation extending collective bargaining and other rights to farmworkers.

Proposed legislation would make arbitration of disputes compulsory, rendering industrial action unlawful, but no agreement on a minimum wage was reached.

In a joint statement yesterday, the two organisations said Manpower Minister Mr Leon Wessels would table the Agricultural Labour Act at the next session of Parliament. The parties said they expected the minister to ensure the legislation be enacted as agreed.

However, Conservative Party-linked Free State Agricultural Union president Mr Piet Gous said that until the regional agricultural unions had accepted the legislation at their congresses, scheduled to take place over the next few weeks, it would not be enforceable.

Sapa reports that SAAU deputy director Mr Robus Kleynhans said Cosatu and the SAAU would continue to meet and would try to come to an agreement on the principle of a minimum wage within 12 months after the act had been promulgated.
CP warns on labour politics

THE Conservative Party yesterday welcomed steps to streamline the Labour Relations Act, but warned yesterday that sensitive employment relationships might be jeopardised if trade unions were allowed to fund political parties.

Official sanction for trade union involvement in party politics would spark uncontrollable fires in the labour arena, CP manpower spokesman Mr Frank le Roux MP said in a statement.

"The logical sequel is for employer organisations to obtain the same rights," he said. — Sapa
Deal reached on farm labour draft law

Cape Town — The South African Agricultural Union (SAAU) and Congress of South African Trade Unions (Cosatu) have accepted a draft law that extends bargaining and union rights to farmworkers. The agreement follows nearly three years of negotiation.

The draft legislation acceptable to both sides was handed yesterday to Manpower Minister Leon Wessels, who said he would submit it to the Cabinet. He expected it to receive a sympathetic hearing.

Cosatu and the SAAU said the draft could be tabled in Parliament next month.

Cosatu campaign organiser Lisa Seftel said: "We have agreed on an agricultural labour Act that extends the Labour Relations Act (LRA) to farmworkers, with additional provisions about special agricultural labour courts, plus more amendments to the Basic Conditions of Employment Act."

"Nothing, in our view, undermines workers' rights. The SAAU and Cosatu also agreed to meet and negotiate on the National Manpower Commission (NMC)."

The NMC negotiations would include debate on the possible exclusion of agriculture from the definition of essential services in the LRA. They would also deal with union access to farms.

"We have agreed on certain limits on the right to strike," Seftel said. — Sapa
Breakthrough as farmers and Cosatu agree on union rights for workers

THE South African Agricultural Union and the Congress of South African Trade Unions have reached a breakthrough agreement in Cape Town on a draft law that extends bargaining and union rights to farm workers. The agreement comes after nearly three years of interrupted negotiations.

The draft legislation acceptable to both sides was handed to Manpower Minister Leon Wessels yesterday.

"I am overjoyed that the SAAU and Cosatu have managed to achieve consensus on extending labour legislation, particularly the Labour Relations Act, to agriculture," Mr Wessels said.

He would submit the draft law to the cabinet as soon as possible and said he expected it to get sympathetic treatment. Cosatu and SAAU spokesmen said the draft could be tabled for enactment in the short session of parliament in September.

Cosatu campaign organiser Lise Settel said intense mediation had eliminated in the agreement. "We have agreed on an agricultural labour Act that extends the Labour Relations Act to farm workers, with additional provisions about special agricultural labour courts, plus more amendments to the Basic Conditions of Employment Act," she said.

"Nothing, in our view, undermines workers' rights. The SAAU and Cosatu also agreed to meet and negotiate on the National Manpower Commission's proposals for the extension of the Labour Relations Act. The EMC negotiations would include possible exclusion of agriculture from the definition of essential services in the Labour Relations Act. They would also deal with union access to farms.

"We have agreed on certain limits on the right to strike, our major concession".

SAAU deputy director Kobus Kleynhans said all six provincial farmers' unions and the National Maize Producers' Organisation had approved the negotiated compromise.

"Neither party achieved precisely what they wanted, but have agreed to a package which can be taken back to their respective constituencies for approval.

"We thought we had hit an unbreachable deadlock late on Friday, thinking it was the end of the road.

"But one of the facilitators, John Brand, remarked that no road has an end. That was our approach, never to accept a final obstacle." — Sapa
Agricultural law 'an interim step'

COSATU said yesterday it saw the planned Agricultural Labour Act as an interim measure.

The trade union federation justified its acceptance of the new legislation by saying that it at least provided basic rights to workers.

Cosatu negotiator Mike Madlala said the organisation did not have sufficient membership clout in the sector to push for greater rights. 

Cosatu has about 100 000 farm worker members in three unions — the Food and Allied Workers' Union, the Southern African Clothing and Textile Workers' Union and the Paper, Printing, Wood and Allied Workers' Union.

However, plans were afoot to consolidate these into one farm labour union by June 1994 as Cosatu affiliates had agreed in principle to establish a single union. A co-ordinator would be appointed soon to facilitate this, Madlala said.

He said the federation would push for a single statute covering all workers and one labour department dealing with both public and private sector employees. The integration of statutes was a priority for Cosatu.

He said the federation would also dispute the essential service definition given to the industry. Meanwhile Cosatu would continue recruiting in the sector as the SA Agricultural Union had agreed to clauses granting access.

DIRK VAN EERDEN reports that the Centre for Rural Legal Studies

said in a statement yesterday the tag of unfair labour practices, which had hung around the neck of the agricultural sector, was now removed.

But it was now up to farmers and farm workers to make it a reality, said the group.

The provision that future changes to the Labour Relations Act and the Basic Conditions of Employment Act would not apply to the Agricultural Labour Act was unfortunate as these Acts were outdated and would be amended in the next two years.

The ban on strikes might be lamented and opposed by farm worker unions, while farmers might find compulsory arbitration an intrusion into the employment relationship.
New farm law: Something for everyone

After three years of tough negotiations, organised labour and agriculture have agreed on a statute to cover farmworkers, writes Ferial Haffajee

In a move that could put Kempston Park negotiators to shame, organised labour and agriculture have hammered out a labour statute that provides protection for the country's 1.3-million farmworkers.

Concluding three years of often arduous negotiations, the Congress of South African Trade Unions and the South African Agricultural Union announced that the Agricultural Labour Statute of 1993 will be tabled at the next parliamentary session.

It is a pinnacle of negotiation politics including something for everybody with no clear victors or vanquished. The farmers wanted a separate statute for agriculture, they got it. Cosatu said farmworkers were entitled to the same legal protection as other workers, they got it.

The statute, though separate, includes almost the entire Labour Relations Act (LRA) in its first chapter, while the Basic Conditions of Employment Act as extended to farmworkers in May this year makes up the second chapter of the statute.

Both are amended for the peculiarities of farming operations: seasonal work, spreaders (flexible working hours) and payment for Sunday work.

The major break with the LRA is the provision for compulsory arbitration and the establishment of a special labour court.

The new agreement is in some ways a policy climbdown for Cosatu which had, until last week, clung steadfastly to its principle of a single labour statute for the country.

But Mike Madlala, who heads Cosatu's farm labour negotiators, said the agreement was the only way to break the deadlock of two years. He pointed out that organising workers into trade unions will be made much easier by the provision in the draft law which guarantees union access to farms. "It is also important in the run-up to elections," he said.

Labour lawyer Paul Benjamin says the compulsory legislation clause is slightly unusual and means the sector is considered an essential service. "This clause ensures that there will be no right to strike in the sector," he adds.

"It is far better to have a single Act with chapters for special areas. This creates real splinters," Cosatu says the statute is only a deadlock-breaking mechanism and not a permanent measure. The federation remains committed to "one body of legislation," says general secretary Jay Naidoo.

For this reason, the parties have agreed that a committee be set up at the National Manpower Commission (NMC) to consider the special interests of the agricultural sector.

The vision of Cosatu and the NMC is a single statute with different chapters for special sectors like the public sector, farming and domestic work.

Naidoo: "Not a permanent measure"

And, in a separate development this week, the NMC proposed wide-ranging changes to the LRA in a draft Bill.

The Act could soon be stripped of the provisions which prevent the employers and employer organisations from funding or affiliating to any political party.

If the Bill is passed, it could make the country's governing Labour Act more accessible.

The proposed changes go a long way to ironing out the anomalies and problems that have made the Act rather cumbersome and unwieldy.

If the LRA clause outlawing political funding by union and employer organisations is deleted, it will be replaced by a clause preventing the funds from closed shop agreements being used for party political ends.

Other changes to the LRA include the publication of a code of fair labour practices, a new section explaining how to determine an unfair labour practice as well as the introduction of a system of precedents in the industrial courts.

This will help in the development of a consistent body of labour law, according to the NMC.
Farmers stall on draft labour law

BLOEMFONTEIN — Free State farmers refused to accept the draft Agricultural Labour Bill at their annual congress yesterday until they had studied it.

The Free State Agricultural Union had resolved at its two previous annual congresses not to recognise any form of farm labour legislation until it had been accepted by farmers in the province, union president Piet Gous said yesterday.

Heated debate followed the introduction of the topic yesterday Speaker after Speaker made it clear they were opposed to any form of legislation, particularly under an ANC-led government.

However, Gous said he was sure the farmers would accept it at a special "mini-congress" within the next two months.

In his introductory speech, Western Cape Agricultural Union president and chairman of the SA Agricultural Union's labour law negotiations team, Chris du Toit, said farmers did not want labour legislation. However, they had to accept that it or the more stringent Labour Relations Act and Basic Conditions of Employment Act would be made applicable to agriculture.

Farmers warned they would have to dismiss many of their workers should a minimum wage be introduced. Du Toit, however, said this would not happen as the Bill did not provide for a minimum wage.

Farmers also expressed concern about the possibility of illegal strikes and the financial implications this would have.

Du Toit said "Farmers are not prepared to subject themselves to others' whims in the name of affirmative action."

Meanwhile, Bophuthatswana president Lucas Mangope said communism was the commercial farmer's worst enemy.

At the congress, he said unless South Africans were extremely careful, they faced a central government dominated by communists.

"It is a matter of record that individuals who wield the real power in the ANC owe their first loyalty to the SACP."

Free and fair elections could not be held in the current climate of violence and intolerance.

The April 27 date had been set by the ANC and government on the basis that it would stem violence. The statistics proved the opposite had happened.

The violence SA experienced was not a natural phenomenon of change, but revolutionary chaos paving the way for total regional collapse and seizure of power by the masses.

Mangope said the present negotiations council had to determine boundaries and powers and write a final constitution.
Short session to introduce labour Bill

PRETORIA — Cabinet yesterday approved the introduction of a draft Agricultural Labour Bill to Parliament's short September session.

Manpower Minister Leon Wessels said Cabinet had approved introducing the draft after three years of negotiations between Cosatu and the SA Agricultural Union ended in an agreement on its contents last week.

The draft Bill makes strikes illegal, but arbitration of disputes compulsory.

Wessels said it contained provisions from the Labour Relations Act and the Basic Conditions of Employment Act, with certain amendments which accommodated the peculiarities of the agricultural sector.

It provided for a special labour court, defined seasonal workers and their rights, set working hours for farm labourers and provided for Manpower Department inspections of conditions in the sector.

ADRIAN HADLAND
Bill for labour, education council

By BARRY STREEK
Political Staff

A NEW council to prevent labour disputes and conflict in education has been proposed in a draft bill.

The Education Labour Relations Council (ELRC) would represent employers and employees and their organisations, but would not apply to private schools.

The aims of the draft bill are to "maintain and promote labour peace in education, prevent labour disputes in education, provide mechanisms for the resolution of disputes between employers and employees and employee organisations, and regulate collective bargaining".

Educators would be allowed to join unions of their choice, and lawful strikes or lock-outs would be allowed.

Matters that could not be settled by the ELRC would be referred to the industrial court or arbitration.

The ELRC would have powers to reach legally binding agreements on minimum wages, registration of professional educators and pension and medical funds and other job-related issues.
Teachers to get own labour statute

A new labour Bill covering the education sector will be tabled in parliament, reports Ferial Haffajee

While a teachers' strike continues to grip black schools around the country, a Bill which could solve many of the teachers' problems will be tabled in parliament next week.

The bulky Education Labour Relations Bill, if passed, will bring teachers into the ambit of labour legislation by granting them the right to strike, introducing a bargaining council where wages and working conditions can be negotiated and by providing for dispute settling mechanisms.

It is the third separate piece of labour legislation for a specific sector announced this month.

A fortnight ago, the Congress of South African Trade Unions and the South African Agricultural Union hammered out an agreement for the draft agricultural labour statute to cover farmers and farmworkers, while the Public Servants Labour Relations Act came into effect on August 2.

Cosatu prefers only one labour statute with chapters for different sectors, but has agreed to the passage of the splintered legislation to push forward negotiations in the three sectors.

The proposed education labour Bill provides teachers with most of the rights contained in the general Labour Relations Act and defines the state as an employer.

This is a key gain for labour, as the state has hitherto argued against such a definition in the public sector.

The Bill also proposes a new structure, the Education Labour Relations Council, which will be a permanent bargaining forum. It is much like the National Manpower Commission and will make recommendations to the minister of education on labour policy and labour legislation in the sector.

The council will also mediate in disputes, continually survey and analyse labour relations while evaluating the application of labour legislation in the sector. The Bill makes provision for disputes that cannot be resolved in the council to be referred to an industrial court and the Labour Appeal Court.

It also establishes the right to freedom of association and to collective bargaining for teachers and establishes an unfair labour practice regime in the sector. Employers are also granted the right to join employer organisations, to bargain collectively and to be protected against unfair labour practices.

The attorney for the South African Democratic Teachers' Union, Barbara Adair, says: "The strike clauses in this Bill are in contravention of any strike clause of the International Labour Organisation."

They provide for dismissal after 30 days for a legal strike while teachers can be dismissed on one day's notice for going on an illegal strike. Adair says the fact that teaching is not classified as an essential service is good.

But, she says, "the functions of the bargaining council curtail the ambit of collective bargaining".

These functions are defined too rigidly "They should be able to negotiate on all matters of mutual interest, full stop," says Adair.

The chapter on fundamental rights of teachers and their employers is also restrictive, says Adair.

These rights are set out in the Bill, but they are also "subject to the provisions of other Acts".
Farmers likely to reject new labour law

PRETORIA — Transvaal farmers were likely to reject the recently proposed Agricultural Labour Act at their annual congress this week, Transvaal Agricultural Union (TAU) president Dries Bruwer said.

The TAU would probably adopt a resolution calling on members to defy openly provisions of the legislation, which would probably be passed by Parliament next month, he said.

Bruwer said Transvaal farmers were on record that they did not want any labour legislation.

Agricultural observers agreed at the weekend that the congress in Pretoria on Wednesday would generate heated debate, particularly on the issues of labour legislation, farm security and land redistribution.

The farmers were also expected to reject SA Agricultural Union recommendations that no career politicians should be elected to the boards of provincial agricultural unions. Bruwer, a CP MP and senior Afrikaner Volksfront member, said he would be available for re-election.

At the Free State Agricultural Union's annual congress held in Bloemfontein this month, farmers resolved to resist an ANC government in the region, particularly on the grounds of the ANC's "communist land policy." Bruwer said Transvaal farmers were likely to follow suit.
proposes leave for farmworkers ● Two policemen in the d

Farm labour boost

RAFT LEGISLATION TO EXTEND labour relations and employment conditions to include the agricultural sector was published yesterday.

The Agricultural Labour Bill provides for the Labour Relations Act, 1956 and the Basic Conditions of Employment Act, 1983 to apply, with some amendments, to agriculture. This includes:
- Investigations and recommendations by the National Manpower Commission.
- Registration of employers' organisations, trade unions and industrial councils.
- The industrial court and the labour appeal court will also be competent to decide matters regarding the agricultural sector.
- Conciliation boards will also be able to settle disputes between employers and employees in agriculture.
- Disputes can be finalised through arbitration or mediation.

LOOKING AHEAD Proposed law will help workers on South African farms:
- Industrial council agreements for the agricultural sector.
- Labour brokers.
- Lockouts and strikes in the agricultural sector, but subject to compulsory arbitration.
- Provision for an agricultural labour court to decide disputes regarding, among other matters, unfair dismissals.
- When the industrial court makes an order regarding reinstatement or the payment of compensation, it must take the specific farming situation into account.
- Inspectors and designated agents must give farmers prior notice of intended inspections.
- The determination of the maximum ordinary daily and weekly hours of work, and of the spread-over for meal intervals, payment of overtime and for certain work performed on Sundays, payment for work on certain public holidays, 14 days' annual leave, termination of employment contract, certificates of service, prohibition of victimisation, records to be kept by employers.

The Bill also provides for defining "seasonal worker", resulting in annual leave provisions not applying to such workers and that under certain circumstances a certificate of service may be issued to them, inspections by inspectors of the Department of Manpower after prior notice to the farmer.

According to an attached memorandum, the Bill is the product of numerous discussions between the SAAU and Cosatu at which full consensus on its contents was reached — Sapa

Wits and Sasco deadlock

NEGOTIATIONS between University of the Witwatersrand and South African Students' Congress deadlocked yesterday morning with both sides digging their heels in on the issue of violence on campus.

The university authorities have demanded a public retraction of Sasco's commitment to violence.

On Sunday, Sasco issued a statement threatening student action if its demands were not met. In the statement, Sasco said it did not condemn "student action" on campus.

Deputy vice-chancellor Professor June Sinclair said Sasco and the Students' Representative Council refused to retract their commitment to violence.

The Sasco statement followed assurances last week that the organisation did not condone violence.

Nearly crushed

About 60 Congress of South African Students members yesterday covered the university's concourse with rubbish in their "Operation Litter" campaign.

Moving along the corridors of Senate House, the students were nearly crushed as they panicked and ran towards exits when members of the Internal Stability Unit wielding batons entered the building.

Teargas was not used and no shots were fired by the ISU members, who arrested one student.

Earlier, Sasco members said they would continue with class boycotts, "Operation Littering" and "other forms of mass action never seen before at the university."

The announcement followed a deadlock in negotiations between university authorities and Sasco on a list of student demands. — Sapa
Farmers defiant

TRANSVAAL Agricultural Union president Dries Bruwer said the organisation was likely to reject the draft Agricultural Labour Act agreed between Cosatu and the South African Agricultural Union earlier this month.

The union was likely to approve a resolution calling for members to openly defy the provisions of the legislation, he said.
Anger at reappointment of top manpower official

Weekly Mail Reporter

The extension of the contracts of existing senior public servants is set to become a burning issue on the brink of elections.

This week, the Congress of South African Trade Unions came out strongly against the extension of the contract of Manpower director general Joel Fourie for three years.

The federation complained that neither it, the National Manpower Commission nor business had been consulted about the re-appointment of the most senior official in the Manpower Department.

Fourie and Cosatu have been at loggerheads for many years and he has been the focus of charges of intransigence levelled at the department.

Cosatu general secretary Jay Nakhoo this week said the two had "a very uneasy relationship". The federation claims Fourie was instrumental in trying to force through the 1988 amendments to the Labour Relations Act and "has not been consulted by Cosatu since".

"I am committed to the labour relations principles as set out in the Laboria Minute," Fourie said this week.

Cosatu representative Neil Coleman stressed it was not only the person but the policy of renewing public officials' contracts that the federation opposed. Cosatu expected to be consulted about the renewal of contracts of the minister of manpower and the head of the NMC too.

Coleman said the positions of key officials across government were being renewed. He suggested this was a "deliberate process to make it difficult for a new government to remove them". It would be legally difficult to remove them from office and it would be financially difficult as their golden-handshakes would be very costly.

"All renewals of key positions must be negotiated," said Coleman.
Relief for farmhands

By Ismail Lagardien

The provisions of the Basic Conditions of Employment Act will be extended to domestic and farmworkers as soon as Parliament has passed the enabling legislation.

The enabling legislation for farmworkers, the Agricultural Labour Bill, was tabled in Parliament yesterday.

Domestic workers have been included in the jurisdiction of the Basic Conditions of Employment Act.

Farm and domestic workers will, among other things, be protected from working long hours without compensation, work fixed daily and weekly hours, have regular meal times, receive annual leave and receive certificates of service and notice of termination of service.
Bills aim to revamp laws

Farmers told to prohbit

ANC Latvia govt over

mobile phone services
Survey on domestics' pay sought

Cape Town — A nationwide survey should be conducted on the basic conditions and wages of domestic workers. Rob Haswell (Ind-ANC Pietermaritzburg South) said yesterday.

Speaking in the debate on the Basic Conditions of Employment Amendment Bill, he said improved conditions for domestic workers did not entirely in the realm of legislation. That was why he had called for a national survey.

Haswell added that suburban communities should look at ways of improving the living conditions of their workers by using vacant land for low-cost housing, or upgrading domestics' quarters into family units.

To argue, as the DP did, that setting a minimum wage of, say, R450 a month was unrealistic was to avoid facing up to the legacy of apartheid.

That the Bill made no provision for maternity leave for domestic workers made a mockery of the Government's commitment to gender equality, he added.

Robin Carlisle (DP Wynberg) said Haswell's call for a minimum wage was in direct contradiction to Cosatu policy. A minimum wage would lead to massive unemployment. — Sepa.
They keep a still tongue

LuLu Mokane was only one or two days old when her mother left her with her grandmother. She was not dumped because she was unwanted, her mother was not allowed to go on maternity leave.

Before she could learn to talk, her mother died, leaving Mokane and eight other siblings with their father at the western Transvaal Bushbuckridge rural settlement.

Mokane said her sister had to drop out of school and look for work on Randfontein’s vegetable farms to augment the family incomes. She joined them when she was 13, earning as little as R30 a month.

In her new job at a Randfontein farm, Mokane works nine hours seven days a week and earns R800 a month. She lives on the farm and gets one day off a month.

Mokane is one of thousands of farmworkers countrywide who work under the severest of conditions but do not dare complain for fear of dismissal. Their stay on the farm depends on their employment.

Until recently, farmworkers were not protected by any law.

This is about to change with the tabling in Parliament this week of the Agricultural Labour Bill. When it becomes law, farmworkers will be guaranteed some rights like sick leave, maternity and annual leave; maximum working hours will be stipulated and the issue of overtime pay will be addressed.

THOUSANDS of farm labourers work under appalling conditions but dare not complain. A Bill being tabled this week will change this. Abdul Milazi reports

The Bill includes most of the provisions that are found in the Labour Relations Act and the Basic Conditions of Employment Act. These two laws have been amended in their application to farmworkers to accommodate the special circumstances of farming like seasonal work, flexible working hours (spreadovers) and payment for Sunday work.

One major difference between this new Bill and the Labour Relations Act is that, to discourage or stop strikes, there is compulsory arbitration in a case of a threatened farmworkers’ strike and there is a special labour court for farming matters. The Bill makes it very difficult for agricultural workers to down tools.

The Bill follows a landmark agreement between Cosatu and the South African Agricultural Union after three years of tough negotiations.

Cosatu general secretary Jay Naidoo said his union had to trade off the farmworkers’ right to strike to break the three-year deadlock.

Transvaal Agricultural Union spokesman Laurie Bosman said although farmers were initially opposed to the law because of issues like the minimum wage and the right to strike, the new Bill met the union’s bottom-line requirements.

But, on the ground, has anything changed?

Farmworkers — including LuLu Mokane — interviewed in Randfontein, Tarlton and Krugersdorp were not aware of the new law, but they said they were excited about the prospect of being able to join trade unions for the first time.

To them, unions meant better wages and an end to exploitation.

Solomon Moilete (25) is another disgruntled worker who thought the new statute was a “blessing from above”.

Every day at 7 am for the past year, Solomon is at his boss’s stall selling vegetables and fruit to passing motorists, and he is still considered a “temp”. He supports his two sisters and their six children on his R80 weekly wage.

Moilete said: “I think the new legislation will help us a lot. There is a lot of exploitation on the farms.”
two million workers
Labour rights for over

employees covered under new act:

By Joaquin Rabonado

LONG STRUGGLE Farm and domestic

Two million workers
New Act & breakthrough for workers - Polemica still in
New law protects private teachers

By CARMEL RICKARD

NOW that farm and domestic workers have legal job protection, the most vulnerable employees in the country are the 23,000 teachers at private schools. Excluded from labour laws and other legal protection, they have had to rely on a sometimes illusory ethos of fair play. In reality, a number of teachers have found themselves at the mercy of principals and governing boards, with no means to ensure their rights.

A new law, published a week ago, will end this anomaly, ensuring that private school teachers have fewer rights than their colleagues in government schools. Under the Education, Labour and Relations Act, a new council is to be set up, representing school employers and staff. It will try to resolve disputes between teachers and employers, but if it fails, the problem may go to the Industrial Court.

This is a major breakthrough for teachers, and follows growing militancy at some schools by staff who do not have a suitable forum for grievances.

However, it will not immediately apply to private schools. Under a special "moratorium" clause it will apply only when the state president says so.

Officials of organizations representing private schools said they strongly supported the right of teachers at these schools to have legal protection.

However, they had been brought into negotiations only at the last minute. While they were aware that some of their members needed to "get their house in order" by, for example, implementing proper grievance procedures, this "moratorium" was not likely to last beyond next March.

For many it will be too late. Retrenched or dismissed under circumstances they believe unfair, they will not be able to challenge the principal or the governing board because the new law is not retrospective.

For example, the law will not help Pat Kiernan, former senior teacher in the English department at the posh Durban Girls' College (DG). According to Mrs Kiernan, she was sacked after an annual year-end farewell dinner, attended by 12 matric pupils, three teachers and a matron. She said that when the principal found out that the girls had drunk a bottle of champagne and wine at the function (as they did every year), Mrs Kiernan was told to go.

She was unable to ask any independent body to review what she felt was an unfair decision. When she took the matter to the Industrial Court, the school had the press barred. The Industrial Court later ruled that it could not even consider her case because teachers were excluded from the Labour Relations Act.

Mrs Kiernan said that because the law had not provided protection for private school teachers, she was unable to clear her name or obtain a fair hearing.

Nor is she alone. The Sunday Times is aware of a number of teachers at private schools in a similar position. Many were senior English teachers; most were retrenched or dismissed soon after a new head took over their schools.

Lawyers acting for several of them said this week that if the new law had been in operation when their clients lost their jobs, the fairness of the dismissals or retrenchments could have been challenged.

Durban Girls' College headmistress Gwen Williams commented: "I am sure that all educators, including those in senior managerial positions, welcome the new legislation."
Govt ordered to consult union on retrenchments

ERICA JANKOWITZ

The case arose as a result of the privatisation of abattoirs and subsequent legislative changes requiring specific job categories to be filled by designated personnel.

As a result, Abacor refused to employ meat inspection staff who did not meet these requirements and, without proper consultation or exploring alternatives, retrenched 35 National Education, Health and Allied Workers' Union members.

The union challenged the retrenchment of workers and the principle of privatisation of abattoirs. The union held that though the department had agreed to negotiate aspects of privatisation, it had already decided whose jobs would be made redundant. This was a unilateral and unfair alteration of terms of employment.

The court decided that the suspension of retrenchment procedures and consultation on the reversal of privatisation, selection criteria, and alternatives to retrenchment.

The court found privatisation plans could reasonably be foreseen to result in retrenchments. However, as the decision had been made before the implementation of the new Act and without retroactive effect, the Minister was allowed to make unilateral decisions.

In terms of the new Act, the court said the Minister would "at least be obliged to consult" on the implementation of such a decision.

The Abacor privatisation came about after the Act came into effect. Therefore, the manner of implementation had to "accord with good labour relations practices".

The court found, however, that the department had not complied with the provisions of the Act, or with the prescriptions laid down by the Commission for Administration which placed an obligation on government departments "to deal with its employees even more equitably than the guidelines laid down by this court".

SAP honours and slates

VEREENIGING — Internal stability unit members had to stay outside Sebokeng's zone 11 soccer stadium on Saturday while their SAP colleagues received the freedom of the Vaal Triangle township.

Deputy regional SAP commissioner Brig Floris Mostert said they had remained outside to avoid a confrontation with the 1,000 residents inside.

As organisers of the freedom award honoured the SAP, companies, journalists and doctors, they stressed the internal stability unit was not wanted in the townships.

Unit head in the Vaal, Col Johan Deysel, told a Goldstone committee hearing last week he had been called by ceremony organisers, including ANC Youth League regional chairman Morris More, that the unit was welcome to take part in Saturday's ceremony. But More on Saturday denied he had offered such an invitation and said he had told Deysel the unit was not wanted.

More's sentiments were echoed by Police and Prisons Civil Rights Union president Gregory Rockman.

At the ceremony, Mostert stood his ground to receive the freedom of Sebokeng despite ridicule from Rockman and award organisers.

Minutes before the handing over ceremony, More organised Xaba told Sapa:

"the deputy commissioner would not receive an award. But Mostert arrived just in time to hear Rockman say police could be accepted only if they joined his union."

"If we are the third force — the SA regime in the clothes of the SAP" he told the crowd.

An apparently upset Mostert, who later described the incident as embarrassing, was pacified by ceremony organisers. The deputy commissioner said afterwards "we" had "gated-crashed" the ceremony.

The award-giver called on the SAP to collect its prize as a show of support for Poppa. Mostert did not go up to collect the award. The body commissioner went up amid cheers by organisers and residents. But he stressed afterwards: "I am not a supporter of Poppa. It is an illegal organisation."

Mostert nevertheless described the day as the beginning of a new era of co-operation between black communities and the police.

Other organisations and people to be honoured were Telkom, Eskom, SA Breweries, doctors and journalists. — Sapa.

Law change on witnesses

PRETORIA — The contentious section 205 of the Criminal Procedure Act, which makes it an offence for a witness to refuse to give evidence, is to be amended by Parliament later this month.

Announcing this on Saturday, Justice Minister Kobi Coetzee said the decision followed his recent discussions with the Press Council of SA and other media interests.

Section 205 was of interest to the media, he said.

A person who appeared before a judge or magistrate and refused to give required information would not be found guilty of being a recalcitrant witness under the amendments unless he had no just cause for the refusal, or the information was necessary in the interests of justice or law and order. — Sapa.
Reconstruction accord will be enforced

THE SACP will insist on any new government abiding by the reconstruction accord, spokesman Jeremy Cronin says in the latest issue of Barometer.

The accord is a Costumed project that calls for massive reconstruction and efforts to redress apartheid imbalances, funded by the state.

Cronin says there will be mass organisation and mobilisation if necessary if a new government is reluctant to stick to the accord. However, a wide range of participatory forums in which civil society and government interact will be the preferred method of getting the accord off the ground, he says.

"Reconstruction is not an effort to squeeze change from a reluctant state but is rather a broad parliamentary and extra-parliamentary effort."

He says the accord is expected to be adopted next month at an ANC convened conference involving a wide range of extra-parliamentary forces.

Cronin says the accord will not create unrealistic expectations. Millions of people already had legitimate hopes that democratisation would change their lives. The function of the accord is to translate those hopes into reality.

On the SACP’s relationship with the ANC, Cronin says the alliance will be maintained in the future. Nor does he anticipate an ideological rift developing between the alliance partners.

Cronin says there may be a “real tendency towards elitism” within an ANC government. He says the ANC will have to remain a broad-based movement if it is to protect itself against bureaucratisation.

Farm labour Act ‘flawed’

INDUSTRIAL Court president Adolph Landman has strongly criticised technical weaknesses in the new Agricultural Labour Act.

Writing in the latest edition of Contemporary Labour Law, Landman said there were many confusing and "terminological inexactitudes in the Act, which bears the marks of compromise and undue haste.”

One apparently unintended consequence was that any changes to the Labour Relations Act would not apply to farming activities. A further complication was that the Industrial Court would have to ascertain which of the two statutes would apply according to whether the litigants were involved in a farming operation.

In terms of the Act, an agricultural labour court, or agricourt, would be established to adjudicate unfair labour practice disputes. It may order compensation, reinstatement, or a monetary settlement as a remedy.

Awards may be enforced by criminal proceedings if the party concerned refused to comply with the order.

East Daggafontein Mines, Limited

(REG No 06/04327/06)

(“East Daggafontein Mines, Limited”)
Trade union federations in

Clash over envisaged labour bill

Nactu is not happy with the bill, Cosatu affirms it.

By Ike Motsapi

A war of words has broken out between the country's 'two trade union federations' regarding the extension of the Labour Relations Act to farm workers.

The National Council of Trade Unions has accused the Congress of South African Trade Unions of collaborating with the South African Agricultural Union in extending some provisions of the labour legislation to farm workers, which, Nactu says, 'do not grant but regulate collective bargaining rights.'

Mr Cunningham Ngcukana, general secretary of Nactu, said: 'The LRA envisaged for farm workers does not provide for a duty to bargain.'

'Collective bargaining under the existing Labour Relations Act is not a right; hence the issue is still debated in the Industrial Courts.'

'The Bill, which is awaiting the signature of State President Mr FW de Klerk, also fails to provide for the right to collectively bargain and its corresponding duty to bargain.'

'It essentially fails to justify Cosatu's concession of accepting the agricultural sector as an essential service,' said Ngcukana.

He said the third point is that the Bill did not include other sectors of organized labour and agriculture.

'We are talking here of Anglo African, Tongaat Hulster, Serco, Mondi Forest and others who were not part to the envisaged deal for farm workers,' said Ngcukana.

Mr Simon Shilongo, general secretary of Cosatu, said the federation had a mandate from its affiliates and members to negotiate the deal for farm workers.
Cosatu claims 'delaying tactics' on farm Act

COSATU yesterday expressed alarm at the government's apparent lack of progress in promulgating the Agricultural Labour Act, due to be operational from January 1, and said farm workers needed maximum protection in the run-up to the election.

Cosatu suggested government had been lobbied by agricultural interests intent on protecting their own rights and was using delaying tactics.

It said the Act had been designed as a temporary measure to prevent labourers being coerced to vote for a political party.
New row looms over law for farm workers

Cosatu accuses government of stalling tactics

NEW wrangling erupted yesterday over the application of Labour laws to farm workers, with the Congress of SA Trade Unions accusing the government of using technicalities to delay promulgation.

Failure to promulgate the Agricultural Labour Act urgently could jeopardise its labour rights agreement with the South African Agricultural Union, said Cosatu.

Cosatu, expressing its alarm at the lack of progress in promulgating the Act and the Basic Conditions of Employment Act for domestic workers, said it would raise the issue at a National Manpower Commission meeting scheduled for next Wednesday.

It also criticised the National Council of Trade Unions for its late objections to the Agricultural Labour Act, claiming Nactu had left negotiations midstream without ever making its views known.

Besides clinching the Act as an interregnum, but significant, advance on the present situation in agriculture, Cosatu said it also had succeeded in getting the SAAU to agree on access to farms, extending the Wage Act to agriculture and setting up a bargaining forum for the sector.

"The Agricultural Labour Act itself was a transitional measure, precisely designed to extend basic rights to farm workers during the run-up to the elections. Further delays will undermine the spirit and letter of the agreement," Cosatu said.

Meanwhile, Nactu general secretary Cunningham Ngcukana said he had met Mr Wessels yesterday to discuss Nactu's problems with the Act.

"The Act is not yet promulgated due to technicalities relating to regulations," he said.

According to Mr Ngcukana, Mr Wessels had agreed promulgation would not be delayed.

Nactu's reservations — hinging on a strike ban in agriculture and access restrictions to trade unions — would be dealt with by the National Manpower Commission and amendments taken to the Parliamentary sitting in February.

"It was agreed that a meeting with Cosatu, the SAAU and SACCola to deal with technicalities relating to promulgation be convened urgently," Mr Wessels said.

He said Cosatu knew of the government's intentions to extend the Basic Conditions of Employment Act to domestic workers with effect from January 1.

A Cosatu representative at the NMC was to have liaison with the SAAU on amendments to the Labour Relations Act being reflected in the Agricultural labour Act, but nothing had materialised.

Mr Wessels said the Industrial Court also had advised Cosatu and the SAAU that specific shortcomings in the Act had to be clarified before it could be implemented.

SAPA.
Crucial changes in farm labour law

Stefan Raubenheimer is a director of Lawyers for Human Rights’ Western Cape rural office and the organisation’s farmworkers project. Staff Reporter DAVID YUTAR spoke to him about the “private agreement” as a means of creating a mutually acceptable labour regime between farmers and workers.

Mr Raubenheimer says the best way to overcome this problem is for farmers and their workers to enter voluntarily into private agreements regulating their labour and social relations.

Lawyers for Human Rights recently helped a large fruit farmer in the Western Cape do just this. The farm with 400 employees now has an “entirely privatised system of labour and social relations.”

“This farm is really little villages with a complex set of social structures and private agreements are a viable alternative to the old system of paternalism and unilateralism whereby farmers had an unfiltered power to determine the rights of their workers.”

These negotiated agreements cover a range of vital issues starting with the basic contract of employment and extending to discipline and grievance proceedings as well as to the cardinal problem of dispute resolution.

The latter, says Mr Raubenheimer, is vital because it is a way of reducing the potential for wildcat strikes — something most farmers can do without.

Also it means that in settling disputes farmers and workers do not have to resort to expensive and bureaucratic state procedures but can rely instead on their own “home-baked” system of dispute resolution.

The Private agreement remains the best way farmers and their workers can regulate their labour and social relations in a manner that is mutually beneficial, says Stefan Raubenheimer.

Despite increasing emphasis under labour legislation, farmworkers remain peculiarly vulnerable to exploitation and abuse.

The past 18 months has seen crucial changes in the labour regime applicable to the country’s more than one million farmworkers, who have hitherto existed in neo-feudal conditions and extreme poverty.

Within this period five important labour-regulating statutes have been extended to farmworkers.

By far the most important of these are the Basic Conditions of Employment Act (BCEA) and the Labour Relations Act (LRA).

Mr Raubenheimer explains that “until now the only rights farmworkers had were under common law — rights stemming from the contract of employment which in most cases were merely verbal.”

“The farmer had free reign to decide what rights his employee would have and the farmworker would receive rights entirely at the whim of his employer.”

Gradually, and after a “long and hard battle”, the government and the South African Agricultural Union (SAAU) had been forced to extend labour legislation to long-neglected farmworkers.

The only Act currently not applicable to farmworkers is the Wage Act, due to what Mr Raubenheimer calls “tremendous fear in the industry of a minimum wage.”

By far the most controversial statutes to be extended to farmworkers were the BCEA and the LRA.

Where previously workers had been working 60 to 65-hour weeks without overtime, the BCEA limited this to 48 hours and made it compulsory for employers to pay workers overtime.

Inclusion of the Agricultural Labour Act (ALA), a modified version of the LRA and “the last big hurdle” took hours of negotiation between the SAAU and COSATU and has yet to become law.

“It attempts to create a special regime for farmers and workers,” says Mr Raubenheimer.

The small labour court created by the Act enables farmworkers for the first time to resolve disputes with employers, without the expense of consulting lawyers.

This will be the first time workers can go to court and contest their dismissal or any other labour practice as unfair.

The more controversial aspect of the ALA and one which Mr Raubenheimer predicts will still set the cat among the pigeons is that it “virtually outlawed strikes on farms since farming is defined as an ‘essential service’”.

By anyone’s standards these structural changes in the agricultural sector have been enormous, says Mr Raubenheimer.

“I don’t think any other industry has cleaned up its act so rapidly.”

“But the question remains how much have these changes tangibly affected the lives and day-to-day realities of poor and economically powerless farmworkers who remain exploited and vulnerable to abuse.”

“The inability of the state apparatus to adjust to these changes and the physical isolation of farms remain serious problems.”

“What is there to stop a farmer miles from anywhere from simply ignoring the law?”

“Remember he also has a very powerful weapon in the form of the Trespass Act, which he can invoke to keep any unwanted third parties or dismissed workers off the farm.”
Labour code set out in new Bill

Cape Town — A Bill that introduces a code of fair labour practice, and compels employers and unions to divulge funding by political organisations, was tabled in Parliament yesterday.

The Labour Relations Amendment Bill also extends the Labour Relations Act to university and technikon teachers.

It extends compulsory arbitration to air traffic and air navigation services.

According to an explanatory memorandum, the Bill sets out to consolidate the provisions in the LRA regarding interim and urgent interim relief.

It also simplifies statutory dispute procedures relating to industrial councils and conciliation boards.

It consolidates provisions regarding the determination of unfair labour practices by the Industrial Court.

While the Minister of Manpower may issue a code of fair labour practice, it is not binding on any court, including the Industrial Court.

The annual statements of trade unions and employer organisations must include details of any financial assistance from any political party.

The Bill lays down that trade unions with security agreements shall not require any employee to grant financial assistance to any political party or any candidate nominated for election to any political party or legislative body — Sapa.
NP ‘stokes fires’

CLAIMS by the National Party that Umkhonto we Sizwe members were joining its ranks should be treated with “contempt and disgust”, African National Congress national spokesman Mr Ronnie Mamoepa said yesterday.

Mamoepa was reacting to earlier claims by the NP’s federal council that an unspecified number of MK members were joining the NP because of “deep dissatisfaction with the ANC leadership”.

Mamoepa said the NP’s claims were “malicious propaganda against the ANC”.

“The ANC and the public in general are aware that people joining the NP do so not out of convictions, but for pecuniary gain.”

“For the NP to make allegations of corruption against the ANC is an absurdity considering its own track record of maladministration, mismanagement over the past decades and its direct responsibility for fraud and corruption in the homelands,” Mamoepa said.

He said the NP statement was yet another attempt by it to “stoke fires within the ranks of MK”.

“Instead of making unfounded allegations, the NP should clean the ranks of the South African Defence Force, which are riddled with CCB (Civil Co-operation Bureau) and hit squad elements, and lead its weight behind efforts to create a new and non-racial defence force,” Mamoepa said.

“The ANC rejects with contempt the allegations contained in the statement,” Mamoepa said. — Sapa.

Venda crippled

GOVERNMENT services in Venda have ground to a halt because of a work-stoppage by about 2 000 civil servants, commission for administration deputy director-general Mr Willy Nzemakonde said yesterday.

The work stoppage, which took the form of sit-ins by civil servants who are members of the National Education, Health and Allied Workers Union, started on Wednesday.

They demand the implementation of agreements entered into during the general strike which ended four weeks ago.

All the departments are almost at a standstill with the Internal Affairs Department being the hardest hit.

The government garage and computer centre have also been affected as official vehicles cannot be refuelled and cheques to companies contracted by the government cannot be issued.

What the new Act means

By Ike Motsapi

THE Basic Conditions of Employment Act of 1983 on domestic workers come into operation tomorrow, the Department of Manpower announced yesterday.

Mr Francois de Villiers, head of public relations for the department, said as from January 1 the basic conditions of employment for domestic workers will be regulated by prescribed legislation.

He said this meant that domestic workers would be paid minimum wages, allowed to take lunch periods and also be entitled to be off on certain days.

De Villiers said “The definition of wage in the case of domestic workers includes payment in kind and includes the provision of food, quarters and any other payment in kind.”

“Payment in kind in the case of a domestic worker means any payment other than cash. The value of the payment is determined as R100 a month or an amount agreed to in writing by the employers and employee, whichever is the larger amount.”

He said an employee who had worked on a Sunday for four hours or less must be paid not less than a day’s wage.

If a domestic worker has worked for longer than four hours he or she is entitled the following benefits:

• Be paid wages for two days or at double his/her wage rate for the whole time worked or whichever is greater; or

• Be paid at one-third time his/her wage rate for the time worked and be granted one day’s leave on full pay with seven days of such Sunday
Labour laws switched by bill

Legislation was tabled in parliament yesterday which will allow trade unions to finance political parties — reversing the current prohibition.

The omnibus Labour Relations Amendment Bill, the first legislation from the new National Manpower Commission, proposes numerous changes to the existing Labour Relations Act. These include a reversal to the existing procedure of the Industrial Court, thereby making the courts subject to the principle of precedence.
Law on domestic workers gazetted

BASIC work conditions for domestic work-
er workers were gazetted on Friday and come into
force on January 1.
The Basic Conditions of Employment
Act was extended to cover domestic work-
ers earlier this year.
The Act sets down minimum working
conditions for domestic workers as well as
gardeners, drivers for private household
and people who look after the sick and
elderly.
It provides for a maximum 12-hour day,
including meal and rest times, for workers
who do not live in, 14 hours for those who
do, and a maximum of five hours' work
before a one-hour break or, if both parties
agree, a 30-minute break.
Ten hours of overtime a week are al-
lowed if both parties agree.
Overtime pay is one and one-third times
normal wages except for Sundays and pub-
lic holidays, when double wages must be
paid. Workers are entitled to 14 consecu-
tive days' paid leave a year, and 30 days'
sick leave over three years. A minimum of
one month's notice is required to end em-
ployment or a month's pay in lieu of notice.
The SA Domestic Workers' Union sug-
gests a R200 a month salary or R5 an hour
for part-time workers.

Gambling loopholes to be closed soon

CAPE TOWN — New legislation on gambling,
including a clampdown on illegal casinos,
would be tabled in Parliament soon, Justice
Minister Kobie Coetsee said at the weekend.
The new legislation would follow the intro-
duction of the Lotteries and Gambling Bill last
week, and would seek to close the loopholes
that had allowed more than 100 backyard gam-
bling dens to thrive across the country.
The tabling of the Lotteries Bill followed the
Howard commission on gambling, and was
aimed at regulating the industry. It provides
for the establishment of a gambling board.
The board's duties will include advising gov-
ernment on how to implement the Howard
commission's recommendations, the control of
fundraising activities such as scratch card
games, the management of future legislation
and the regulation of all existing lotteries and
gambling in the TBVC states.
The board will also advise government on
the creation of a state-regulated lottery and the
establishment of a body to control casinos and
bingo halls, and will formulate a national pol-
cy on betting at sports events.

Tourism plans

THE Natal Parks Board is waiting for a
Cabinet decision on the St Lucia mining
before launching its plans to extend to
tourism facilities.
Conservationists greeted with joy the
review panel's unanimous decision at
Richards Bay Minerals' plan for titanium
mining in the area.
Review panel chairman Judge R. Leo
at a Cape Town news conference that the
net, perhaps in co-operation with the Na-
tional Executive Council, would have to:
the final decision.
Natal Parks Board CE Dick Parris said
week the board welcomed the panel's de-
and was ready to develop ecotourism i
area.
Plans to expand tourism facilities had
delayed because of the uncertainty sur-
rounding the mining dispute. Finance was
available, as were initiatives to include
communities in the running of St Lucia, he
RBM communications GM Barry Clep
said the panel's decision was disappoint-
The review panel seemed to have put
more emphasis on "intangible factors" th
An early test for the new, democratically elected (ANC) government after April could come from the unions — specifically those in the State sector — empowered as a result of the Public Sector Labour Relations Act that was passed in August. The new law allows for relatively unfettered, true collective bargaining in this sector. Labour specialists expect that as these unions increase their influence they will more readily resort to strikes.

It is likely, therefore," says labour consultant Andrew Levy in his strike report for the year to December 30, "that we will see increased activity (in the public sector) in the immediate future in an attempt to redress past imbalances and forestall any rationalisation attempts on the part of government."

The difference will be that if the unions flex their muscles it will be not against the apartheid regime of yore, but against a popular government composed chiefly of the ANC, with which union federation Cosatu is in alliance. Whether this will restrain union action, or precipitate a parting of the ways between the ANC and Cosatu, is a pressing question.

Of the total 3.6m man-days lost through strikes this year — 14% down on last year's 4.2m — the State sector accounted for the highest proportion (67%). This is a remarkable jump compared with last year, when it was responsible for 12% of man-days lost.

Next comes the retail sector with 17%, textile 5%, food 4%, mining 2.5%, chemical industry 1.5% and transport and other with 0.8%. The main reason for the 14% decrease in man-days lost is put down to the long recession.

There were several big strikes. Most notable was the prolonged SA Democratic Teachers' Union stoppage which accounted for the loss of 395 000 man-days. Municipal wage strikes around the country lost a further 162 994 and the Shoprite/Checkers strike in May, over the unilateral withdrawal of a recognition agreement, resulted in 240 000 man-days lost.

As usual, wages were the main trigger, causing 69% of all strikes, but down on last year's 78%. The report says "This does indicate a degree of restraint on the part of the negotiating parties in this harsh economic climate."

Wage bargaining in the main sectors — mining, steel & engineering and vehicles — was completed on schedule without resort to industrial action, thus helping to set the standard for their respective industries.

The report says that a large percentage of strikes (16%) took place as a result of grievances ranging from the enlistment of subcontractors to charges of assault and tax deductions from bonuses. These were followed by retrenchments at 13% (last year 0.2%). "Though major retrenchments have taken place over the past few years across the board, it is apparent that companies are still cutting back, though on a smaller scale, and this is meeting with resistance."

Dismissals and disciplinary action accounted for 1.7% and recognition disputes for a mere 0.2% of strikes.

The year saw an increase in the number of strikes involving 1 000 workers or more, from 31% last year to 38%, and a decrease in those involving fewer than 200 workers (32% to 18%). Most strikes (36%) lasted two to four days, with 29% having lasted five to nine days.
Seeking middle ground over dismissal

To ensure that dismissal decisions for continuous absenteeism due to ill health were legitimate, employers should first have explored all alternatives aimed at helping such workers secure their jobs, Anglo American labour law advisor Andre van Niekerk said.

Writing in the latest edition of Contemporary Labour Law, Van Niekerk criticised a recent Industrial Court decision which upheld dismissal decisions based on the employee's inability to fulfil his contractual obligations.

"To argue that it is absence from work rather than physical incapacity due to ill health which occasions dismissal, and thereby excuse an obligation to properly appraise the employee's situation and consider alternative employment, is to focus on the employer's operational needs to the exclusion of the employee's interests," Van Niekerk said.

In past Industrial Court decisions, for the sanction to be upheld, an employer had to prove he had adopted a sympathetic and compassionate approach.

Van Niekerk emphasised that in cases where an injury was work-related, the obligation to seek and provide alternative employment would be greater.
Domestic workers’ last Christmas

FROM 1994, domestic employees may work on Christmas Day only by mutual agreement and if they are compensated in terms of the provisions of the Basic Conditions of Employment Act, which will be extended to cover them on January 1.

And, as New Year’s Day is another of the seven paid public holidays in terms of the Act, some employers may fall foul of the law the first day it comes into effect.

Labour consultant Jan Smit, in his book A Four-vifs - A Four Labour-Practice, says there are three rules covering Sunday and public holiday pay for domestic workers. They are:

☐ If more than four hours are worked, double the hourly rate may be paid without the additional time off being given.

☐ If compensation will include payment in kind, all overtime pay, leave pay and pay in lieu of notice must be calculated to include the value of such items, usually food and accommodation.

☐ He warns that the Act stipulates a maximum 48-hour week for domestic workers, after which overtime, up to a maximum of 10 hours a week, must be paid. Overtime is calculated at one-and-a-third times normal pay, plus the cash equivalent of payments made in kind.

No minimum wage is stipulated in the Act, but “the wage paid must be fair in relation to the work performed and what the employer can afford”, Smit said.