

LABOUR Legislation

1997



'Bogus' unions undermine Act

M+G (BM) 17/8/97 (166)

Labour courts are being jammed by people using loopholes in the new Labour Relations Act to reap financial benefits, reports **Charlene Smith**

SOUTH AFRICA'S new labour legislation has placed huge caseloads on its various judicial bodies — and created new opportunities for slippery labour analysts and lawyers.

Since the new Labour Relations Act came into effect on November 11 last year 121 trade unions have been registered and 48 employee organisations — many of them bogus and deliberately created to gain access to thousands of potentially lucrative cases before the Council for Conciliation, Mediation and Arbitration (CCMA).

In all there are presently 403 trade unions and 247 employee organisations. The plethora of bogus unions some with names similar to those of existing trade unions has led to at least three cases being filed against the Registrar of Trade Unions in Pretoria by existing unions to get the new names struck off the register.

A source in the registrar's office said "We are digging ourselves deeper and deeper into a mess. The Act says we must register a union if it gives us the inaugural minutes but we know many are not bona fide. We have one union that has submitted no financial statements since 1992, but we cannot compel it to do so. We try and get unions to give different names but so many are registering it is getting difficult."

New unions registered in the last year include "The National Employed Workers Union", "Simunye Workers Union", "Thor Transport and General Workers Union", "Nationwide Employers Union" and "United Chemical Allied Workers Union."

Minister of Labour Tito Mboweni says "Many consultants are registering themselves to gain special access to the CCMA. There are even instances where an individual consultant registers both as an employer organisation and as a union and then sues for business outside the council, signing up complainants at the door. This defeats the purpose of the Act." Mboweni is investigating the matter further.

Charles Nupen, director of the



Tito Mboweni Investigating abuses of the new Labour Relations Act

PHOTOGRAPH: SIDDIQUE DAVIDS

to form the basis of a new trend" says a prominent labour litigator.

Behind the scenes judges and commissioners are complaining of inadequate back-up from the Department of Labour in eliminating huge caseloads. The old industrial court in Pretoria, as an example, has said it will never meet its April 30 deadline next year for closure despite clearing an average of a thousand cases a month off its roll.

Judge Mohammed-Ameen Bulbulia, who heads the industrial court, says the 10 500 cases waiting to be heard in April had been reduced by a thousand in May, and was down to 8 677 in June. This reflects remarkable work by his staff of "30 or 40 presiding officers" (against 300 a year ago). "Our budget has also been cut from R31-million to R23-million, and it has been very difficult to keep officers who earn only R648 a day here,

cations relating to strikes. One judge, each month, spends his time travelling from one metropole to another — Cape Town, Port Elizabeth and most often Durban to hear matters.

There are also two judges on permanent after-hours standby for urgent applications and they too have found their schedule is often hectic.

As an example, Judge Ray Zondo heard an urgent application in Cape Town last Sunday, and was in Durban on Monday for another urgent matter.

Judge JP Myburgh, judge president of the labour court, says that at this stage there is not enough work to justify a full-time judge in any of the other centres, but he foresees a situation possibly some time next year, when an increasing labour court load could begin placing serious pressure on the existing judges, and the three new judges to be appointed in October.

'Non-urgent matters take time to filter through the council and by the end of the year we should see pressures begin increasing on the labour court and the labour appeal court. Our fear is that we could be hit with an avalanche of reviews when the present high settlement rate begins dropping, which it inevitably will."

Judge Myburgh said the difficulty with urgent matters was that they had to be decided quickly "but because it is a new Act the judges have no precedents to rely on. They have to motivate very carefully because the legal fraternity and others monitor judgments very closely and use them to interpret labour legislation."

The majority of cases heard by the Johannesburg-based Labour Court have been urgent applications. Only three labour appeals, under the new Act, have been heard since the court began functioning late last year and all resulted from urgent applications, two involving the same company, Ceramic Industries Limited and the National Construction, Building and Allied Workers Union.

The labour appeal court also hears appeals from the industrial court arising from judgments given since the new Act came into effect on November 11 last year.

It is expected that some 200 to 300 appeals will come before the labour appeal court from the backlog being ploughed through by the old industrial court.

with R81 an hour for preparation and the writing of judgments compared to R1 500 a day and R600 for the writing of judgments for CCMA commissioners." Judge Bulbulia said "The minister has said he wants this court closed by the end of April next year, but I do not think that will be feasible before the end of 1998."

Old court venues are closing around the country and their case loads are transferred to Pretoria and are heard by circuit presiding officers.

The new labour court is already preparing itself for an expected deluge of new cases that will put pressure on its five judges. Although there is a narrow review base for matters to go before the labour court — with only 16 reviews presently pending before it from the CCMA — the court and its five judges are kept very busy mostly with urgent appli-

Cosatu may compromise to avoid

But union digs in heels over certain key employment conditions

THABO MABASO
BUSINESS REPORTER

(166) ARG 1/18/97

The Congress of South African Trade Unions (Cosatu) has indicated that it would be prepared to compromise on some of its demands in an attempt to break the impasse at the negotiations for a new Basic Conditions of Employment Bill.

But Cosatu has warned it will not compromise on core demands and any compromise must be approved by members

The federation's core demands include a 40-hour week, six months maternity leave, child labour and extra pay for employees working on Sundays.

These are the very demands that industry bosses have found to be unpalatable.

Cosatu's Western Cape secretary general Tony Ehrenreich said the federation was continually looking for a solution to the deadlock at the National Economic, Development and Labour Council (Nedlac) negotiations.

"Negotiations are about compromising

and Cosatu is there looking for a compromise that would satisfy its constituency," Mr Ehrenreich said.

He did not want to say on which issues the federation would be willing to compromise.

The indication that Cosatu was willing to compromise comes just days before the federation embarks on its planned mass action, which is aimed to force bosses to accept union demands.

The action starts on Monday with a one-hour work stoppage. This will be followed

later in the month by a series of regional strikes, culminating in two 24-hour national strikes. A regional strike is planned for the Western Cape on August 18.

Mr Ehrenreich said even if a compromise was worked out at Nedlac, Cosatu members would have to give the green light to its acceptance or otherwise.

A spokeswoman for the South African Chamber of Business (Sacob), who did not want to be identified, said that business leaders were in principle also prepared to compromise. She also did not want to name

the areas of compromise.

There has been persistent talk of a compromise by business and labour in the last month.

Much of the talk has been fuelled by speculation that labour minister Tito Mboweni could be forced to delay introducing the bill to parliament by failure to compromise among the Nedlac partners.

If the bill is not tabled in September, a few weeks before parliament goes into recess, it will be delayed until next year.

The African National Congress has also

urged the Nedlac partners to reach a decision soon.

ANC spokesman Ronnie Mamoepa said the party was planning to meet Cosatu within a fortnight.

"We want to ensure that our common vision is maintained and that the bill is passed through parliament during the current session," Mr Mamoepa told the Cape Argus.

He added the ANC welcomed "the broad thrust of the bill because it attempted to address the needs of vulnerable workers."

bill impasse

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Star 2/8/97

Cosatu's protest action set to start on Monday

(166)

Cape Town - The Congress of SA Trade Unions' programme of rolling mass action in support of its demands concerning the Basic Conditions of Employment Bill, which include a 40-hour working week, gets under way on Monday with a one-hour work stoppage from 10 to 11am.

The countrywide demonstration had the support of all of Cosatu's 19 affiliate unions, Dorothy Mogalo, the federation's organising secretary, said yesterday. Workers would down tools and submit their demands to the management of individual companies, but no big rallies had been planned.

Gerrie Bezuidenhout, director of labour affairs for the SA Chamber of Business (Sacob), said the stoppage would be very disruptive, especially since it had been scheduled for mid-morning.

Mogalo said all legal procedures required by the Labour Relations Act for the stoppage to go ahead had been followed.

No work, no pay

Bezuidenhout said the legality of the stoppage was still being debated by organised business, but no court action had been implemented against Cosatu so far.

He said Sacob urged its members to reach some agreement with their workforce to minimise disruption, such as shifting the lunch hour to earlier in the day. In general, the principle of no work, no pay should be applied, Bezuidenhout said.

Mogalo said Cosatu wanted workers to be paid, but this would have to be negotiated with individual firms.

Chamber of Mines spokesman Llewellyn Kriel said that in the past, industrial action by Cosatu had met with an extremely mixed reaction in the mining industry. Monday's demonstration would be dealt with on a mine-by-mine basis.

Meanwhile, attempts to broker a compromise on the bill have been on hold for the past few days because Labour Minister Tito Mboweni has been in Washington attending the fourth meeting of the US-SA bi-national-



IT'S ALL TRUE: Martin Engelbrecht in Sauer Street with his placard yesterday

PHOTOGRAPH CHRIS ADLAM

Tearful man admits to lying often, seeks forgiveness from wife

A tearful Martin Engelbrecht stood opposite the Gauteng local government building in Sauer Street yesterday with a placard reading "Ek het vir my vrou gelieg" (I lied to my wife).

Engelbrecht (30), whose wife has threatened to leave him because of his continual dishonesty said "I want the world to know I'm a liar, this is my own punishment I'm giving myself".

Previously divorced Engelbrecht, a South Hills resident, said his five-year marriage to wife number two, Karen, had hit a rough patch but he would "stand here till she comes back to me".

The heartbroken father of two started his vigil at 11am outside the building in which his wife works and planned to leave with her at 4pm. But she did not. Estranged spouse Karen earlier asked him to move away, but her persistent husband remained. Neither she nor Martin would comment on details of the breakup.

Employment bill deadlock

(166)

ARG 2/8/97

causes concern

Building industry fears

GRAHAM NORRIS
PROPERTY REPORTER

The building industry has expressed concern about the deadlock in negotiations between the government, business and labour on employment conditions

Ian Robinson, executive director of the Building Industries Federation of South Africa (Bifsa), said the fortunes of the building industry were very much dependent on the successful implementation of the government's strategy of growth, employment and redistribution (Gear).

If, as was the intention, macro-economic growth of 6% was achieved by the year 2000, double digit annualised growth in the building industry was a very real possibility and could be sustainable, he said

But the government and business appeared to be on a collision course with labour on the implementation of Gear, and if the government gave in to pressure from labour, it would severely hamper, if not halt, Gear's progress. The long-term negative repercussions for the South African economy would be far-reaching.

Mr Robinson said that in spite of overseas investors maintaining that labour market flexibility must be an important characteristic of the South African economy, the labour unions were holding out for less flexibility and more stringent conditions applicable to the labour market

Cosatu said this week it would go ahead with three weeks of nationwide mass action during August, starting on Monday,

to press for its key demands on the draft Basic Conditions of Employment Bill

Turning to the short-term outlook for the building industry, Mr Robinson said that although Bifsa believed that investment in the private residential market would show no significant growth in 1997, prospects for 1998 should be better. This was providing that less strict monetary control was applied, resulting in a decline in interest rates

He said that Bifsa was optimistic that as interest rates dropped and inflationary levels dropped off, and growth in the general economy accelerated, growth in this sector could increase by up to 6% by the end of 1998

Mr Robinson said prospects in the public residential market were for the first time looking brighter. The Minister of Housing was hopeful that by the year 2000, a million houses would have been built. The latest data received from the Department of Housing showed that during the period from March 1994 to June 1997, a total of 594 805 housing subsidies had been allocated. The amounts actually spent by the department had increased from R471,3-million in the 1995/96 financial year to R1 514,2-million in 1996/97.

The possibility of hosting the 2004 Olympic Games in Cape Town would also be of great significance to the building industry. Mr Robinson said that if the city won the bid, building activity in the Western Cape linked to hotels, the Olympic village and other venues could double building activity and employment in the region

Cosatu starts mass action rolling with national one-hour stoppage

By PATRICK PHOSA AND SAPA

The Congress of SA Trade Unions (Cosatu) today began action to press home demands around the draft Basic Conditions of Employment Bill, after attempts to broker a settlement failed.

Cosatu called for a one-hour national work stoppage today, to be followed by 24-hour strikes between August 18 and 21 in various provinces and a 24-hour national strike on the day business and labour make their submissions to Parliament on the bill. This date has not been determined.

The countrywide rolling mass action follows failed attempts by organised business, labour and the Government at

(166) Star 4/8/97
the National Economic Development and Labour Council to reach a compromise on deadlocked issues regarding the bill.

Cosatu's demands include a 40-hour working week and six-months' maternity leave - at least four months of which should be paid.

The working week currently ranges from 46 to 68 hours.

Business is offering a 45-hour week and four months' maternity leave.

The Government is also proposing a 45-hour week and four months' maternity leave, payment of which is being considered by a ministerial team.

Cosatu had previously embarked on protests to break the deadlock, but business stood its ground, saying it could not

compromise without jeopardising the economy.

Cosatu's 19 affiliates have come out in strong support of the mass action, and thousands of workers are expected to down tools and submit their demands to the management of individual companies.

The SA Municipal Workers' Union has also thrown its full weight behind the national campaign.

Gerrie Bezuidenhout, labour affairs director for the SA Chamber of Business, said that generally the no-work, no-pay principle should be applied.

Labour Minister Tito Mboweni has threatened to withdraw the bill from Parliament unless broad consensus is reached by August 15.

Cosatu expects 2-million to down tools

Deborah Fine

(166) (162)
BD 4/8/97
THE Congress of SA Trade Unions (Cosatu) was expecting more than 2-million workers countrywide to go on a one-hour work stoppage today in support of the union's demands regarding the Basic Conditions of Employment Bill, Cosatu assistant general secretary Zwelinzima Vavi said yesterday.

Vavi said it was expected that all 1,9-million members of Cosatu's 19 affiliates, as well as "a few million other workers who are not Cosatu mem-

bers but who also support our demands" would down tools between 10 and 11am. This would be in support of the union's call for six months' maternity leave (of which four months should be paid), a minimum working age of 16 and a 40-hour working week.

The demands have been criticised by business, which claims they would significantly increase labour costs.

Business SA negotiator on the bill, Adrian du Plessis, said yesterday that the one-hour stoppages were "unhelpful" and would harm the economy

LABOUR NEWS

'Patchy' strikes reported in cities but unions claim success

Cosatu action gets mixed response

FRANK NXUMALO

Johannesburg — The National Union of Metalworkers of South Africa (Numsa) said yesterday workers throughout the country had responded positively to Cosatu's call for nationwide, one-hour work stoppages.

However, Dave Carson, the director of industrial relations at the Steel and Engineering Industry Federation of South Africa, said the stoppages "didn't seem to be particularly widespread" in the steel industry.

Numsa spokesman Dumisa Ntshu said "The work stoppages have been successful in terms of our union networks throughout the country."

"It clearly proved to employers that we are serious about our demands, and they must stop being intransigent towards labour market transformation in this country."

Another Numsa statement said about 800 workers downed tools between 10am and 11am yesterday at the Score Metals factory in Johannesburg.

They were addressed by Zwelanzima Vavi, Cosatu assistant general secretary, on the union federation's demands, which include a 40-hour work week to be achieved over a period of not more than five years and six months' maternity leave with at least four months fully paid.

South African Municipal Workers' Union (Samwu) spokesman Anna Weekes said the tools down had been "quite successful, as even in small conservative towns every worker had responded positively."

In East London 1 700 workers demonstrated in front of the City Hall

turnout of organised municipal workers in Mpumalanga and the Northern Province," Weekes said.

"In East London, over 1 700 municipal workers demonstrated in front of the City Hall, where they were addressed by Cosatu office bearers; 500 turned out in Queenstown and around 1 000 in Umtata."

More than 800 workers downed tools at the electricity department in Johannesburg, and workers turned out in Durban despite management threats that it would issue disciplinary letters to any worker caught striking, Weekes said.

Audrey d'Angelo reports from Cape Town that the response to Cosatu's call for a one-hour general strike was very patchy in the Western Cape. Colin Boyes, an assistant director of the Cape Chamber of Commerce and Industry, said the call had been ignored completely in the commercial sector and was supported only in the industrial sectors where Cosatu was strongest, notably metal working.

Metal working in Western Cape was hardest hit by the stayaway

The chamber had advised member firms to deduct an hour's pay from strikers but to treat the action as a legal strike. "However, we reserve the right to look at the legality of any further action," Boyes said.

Ravn Maharaj reports that the one-hour stoppage had little effect on organised business in Durban, Pietermaritzburg and Richards Bay.

John Bryce, a spokesman at the Durban Chamber of Commerce and Industry, said members indicated the stoppage had only received 20 per cent support.

He said it was a "non-event" in most areas.

Paulos Ngcobo, the provincial secretary at Cosatu, said reports from its members had indicated workers from 19 affiliated unions had responded to the federation's call.

He could not comment on the extent of the stoppage but said the federation was tabulating figures from all affiliates.

The unions, he said, were "warming up for further action."

CT (1997) 5 | 8 | 97 (166)

Extent of union support for work stoppage 'hard to gauge'

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Renee Grawitzky
80 5/8/97

THE Congress of SA Trade Unions' (Cosatu's) one-hour stoppage yesterday to back demands on the Basic Conditions of Employment Bill was judged by employer organisations as "patchy" and a nonevent, while the true extent of support was difficult to determine.

Employer organisations in the major centres reported that the one-hour stoppage between 10am and 11am was patchy in the Western Cape, KwaZulu-Natal and Gauteng.

There there appeared to be more support for it in the Eastern Cape.

Cosatu was unable to give full details of the extent of the action.

Meanwhile, the SA Municipal Workers' Union (Sawu) claimed that thousands of organised municipal workers around the country heeded the call. It said the electricity departments in a number of regions had been affected and claimed that in Springfield, Durban, workers had been threatened with disciplinary letters.

A snap survey among some major employers in the retail, engineering, vehicle manufacturing and chemical sectors countrywide showed that in some cases workers agreed to protest during their lunch hour, while others did not protest during time set aside by unions and management.

A major retail employer said there was some confusion about the action, and that workers went out closer to lunchtime.

A major chemical employer said workers appeared "half-hearted" about the action, with a small group going out for half an hour and then returning to work.

Cosatu's media officer, Nowetu Mpati, said earlier in the day that municipal workers on the highveld, and in Boksburg, KwaZulu-Natal, Free State and Western Cape had participated in demonstrations, while National Union of Metalworkers of SA members had put down tools at Scaw Metals in the Wadeville area of Johannesburg.

World bodies converge on labour rights

The World Trade Organisation and the International Labour Organisation have been at odds on labour rights, but there may be convergence, writes **André van Niekerk**

(16b) Bb 5/8/97

ly to have as its basis a verification of the degree of respect accorded by individual member states for the spirit and principles of core conventions, irrespective of ratification. Here the tension between those who argue for level playing fields and those who argue against labour standards as a form of protectionism are likely to be more acute.

Prof Harry Arthur of York University in Canada made the point at the recent annual labour law conference held in Durban that self-interest rather than idealism was more likely to achieve a "more benign version of global capitalism".

"Two statements to the international labour conference reflect the degrees of self-interest and idealism surrounding the issue."

The first was from World Bank president James Wolfenson's address "One thing which we have come to in recent years is an absolute recognition that, unless you have sound social policies, you cannot have sound economic policies. That is crystal clear. Unless you have a solid base with the people, unless you are concerned with the rights of the individual, unless you are concerned with elements of social responsibility and social justice, you cannot have peace and you cannot have safe investing."

The second was from the ILO director-general's report: "... its (the ILO's) raison d'être is still to guarantee social peace, without which neither the multilateral trade system, nor the financial system — and by extension the global economy — would be able to develop or even survive."

But what both these statements also disclose is the mutuality that exists between economic and social progress, and the recognition that social progress will in future increasingly be the subject of both encouragement and evaluation by the ILO.

□ *Van Niekerk is a legal adviser to Anglo American Corporation and was a member of the SA employer delegation to the ILO conference. He writes in his personal capacity.*

Simon Barber is on leave and his Tuesday column will not appear for three weeks.

nommic benefits generated by the liberalisation of trade

The second effect of the decisions in Copenhagen and Singapore is one concerning the ILO's role and stature. The body has been given a new recognition and legitimacy and has drawn on this to revitalise itself and more confidently adapt its programmes to fit a changing world environment.

The report of the director-general to this year's conference refers to the "renewed expectations and hopes" placed on the ILO, and the "historic responsibility to act without delay".

Although there is consensus on the content of core labour rights (they include rights to freedom of association, collective bargaining, equality of treatment and non-discrimination, and the prohibition of forced labour and child labour),

there is less certainty as to how the ILO should guarantee the universal application of standards

The director-general's report is devoted entirely to the subject of labour standards and standard setting. It calls on member states to account for their decisions in Copenhagen and Singapore, and to consider the form that the implementation of those decisions might take within the ILO.

Member states attending the conference were specifically asked to consider whether (and how) the ILO could ensure respect for fundamental rights by the parties to the multilateral trade system and to respond to specific proposals, some more controversial than others, for improvements to the existing ILO machinery relating to the adoption of standards and their supervision.

Proposals ranged from the controversial — the voluntary subscription by member states to a system of "social labelling" (a guarantee of the conditions under which consumer articles are manufactured), to the relatively benign — a proposal to maintain the current campaign to promote the ratification of core standards by member states

The debate that ensued during the plenary sessions of the conference was lively. Not surprisingly, perhaps, some interpreted the ministerial declaration of the Singapore conference less conclusively. In particular, members of the Non-aligned Movement sought to head off the director-general's initiative with cries of disguised protectionism. But the majority of member states, SA ranked among them, acknowledged the need for global-

isation to have some kind of social dimension

In his reply to the debate, the director-general supported this view and pointedly ignored those who, it seemed, ignored principles established in Copenhagen and Singapore necessary binding in Geneva. He made the observation that although membership of the ILO was a voluntary act, it was in itself a recognition of and commitment to certain values, and it was on this basis that discussions on the future regulation of standards would take place.

The question that remains unanswered (and which will be debated by the ILO's governing body in November), is how member states should be asked to make their commitments more explicit.

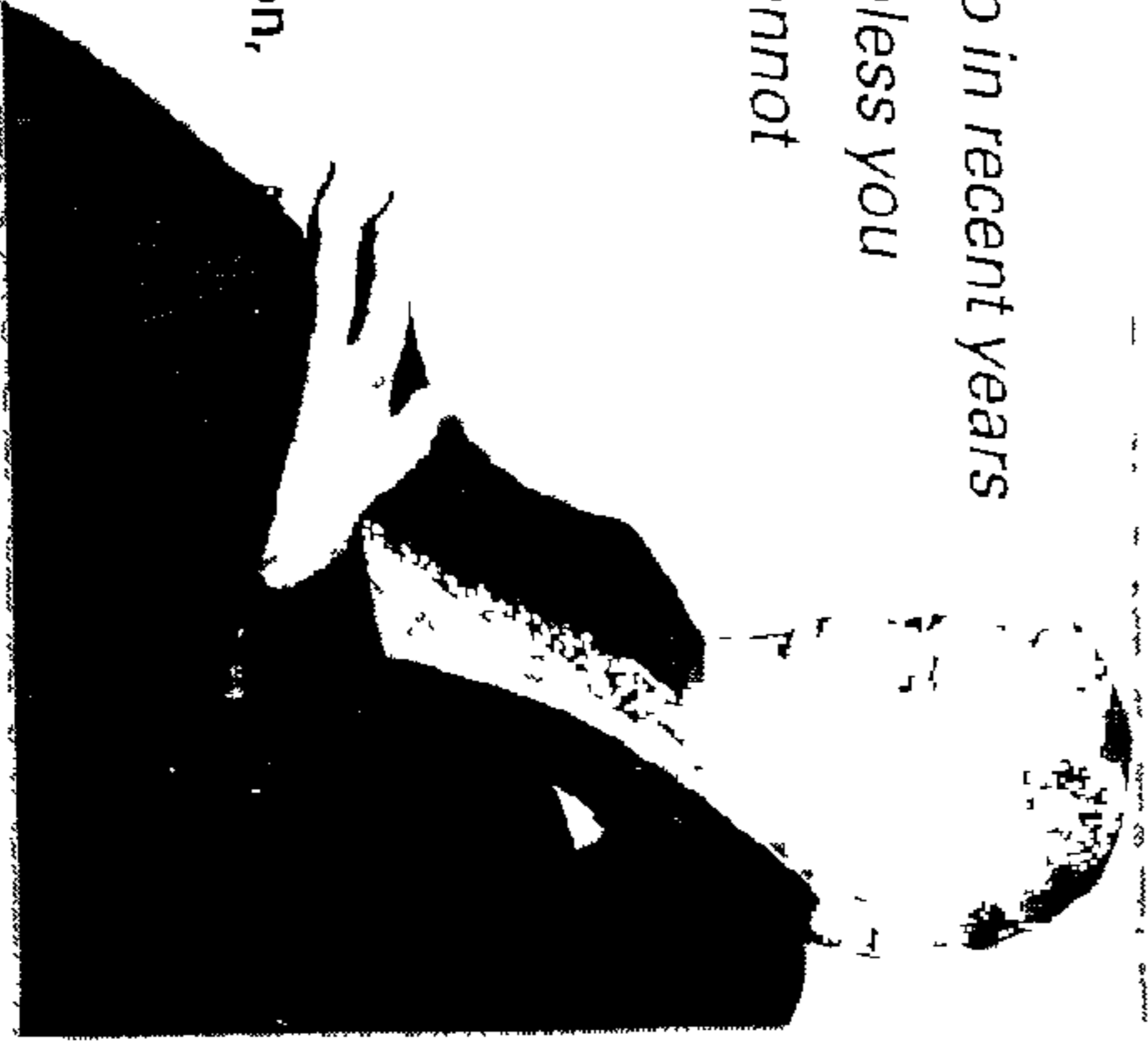
The responses to the director-general's proposals elicited two broad options — universal ratification of seven core ILO conventions, and adoption by members of a solemn declaration on fundamental rights

The more likely option is a solemn declaration to be drafted for adoption, possibly as early as the 1998 conference

Substantive agreement on core labour rights will be less difficult to achieve than agreement on the mechanism

'One thing which we have come to in recent years is an absolute recognition that, unless you have sound social policies, you cannot have sound economic policies. That is crystal clear.'

World Bank president James Wolfenson, in his address at June's International Labour Conference



ARALLELISM is a term applied to the establishment of a correspondence between two organisations. It is increasingly being used in the debate on links between trade and labour standards

Not only does the term denote an increasing realisation that the benefits of globalisation can best be ensured by political and social conditions that rely on some form of intervention, it also best describes the remarkable degree of agreement in the views of two organisations whose positions on fundamental labour rights have long been considered at odds.

Worker rights in the context of trade liberalisation and the globalisation of the economy was the main topic of discussion during the 85th session of the international labour conference in Geneva in June.

Although inconclusive, new perspectives on the relationship between social progress and economic progress were developed, and new directions in the debate on international labour standards were determined

These were largely made possible by prior decisions, taken in Copenhagen and Singapore, directly affecting the International Labour Organisation (ILO) and its role in the generation and supervision of labour standards

Heads of state at the social summit in Copenhagen agreed on the need to promote the fundamental conventions of the ILO.

Trade ministers attending the World Trade Organisation (WTO) conference in Singapore last year renewed their commitment to the observance of internationally recognised core labour standards, and reaffirmed the status of the ILO as the repository and supervisor of these standards

The first and most fundamental effect of the decision taken by ministers attending the WTO conference was to dispose of the "social clause" debate.

The ILO has acknowledged that developing nations are entitled to the advantages they derive from lower wages and levels of social protection. The organisation now advocates the universal guarantee of fundamental rights as a prerequisite for the ability of workers to participate in the eco-

Mboweni optimistic on Bill

Sowetan 6/8/97 (166)

By Abdul Milazi

WITH the deadline for labour and business to reach consensus on the Basic Conditions of Employment Bill only 10 days away, Labour Minister Tito Mboweni yesterday seemed optimistic that a settlement on the current dispute would be reached in time for it to go to Cabinet.

Mboweni's optimism comes after mass action by the Congress of South African Trade Unions (Cosatu), which began on Monday in protest against sections of the Bill.

He said progress had been made at recent bilateral talks with business and the three major trade

union federations, and indications were that sufficient consensus would be reached soon.

"We need sufficient consensus for the Bill to go through Parliament. There is no way we can reach total consensus on this one," Mboweni told *Sowetan*.

Mboweni said consensus had already been reached on Sunday work and the funding of maternity leave, while some progress was made on a model for the variation of employment standards although no agreement had been reached yet.

He said his optimism was also fuelled by the recent announcement by Cosatu's executive committee that it had mandated the fed-

eration's leadership to explore possibilities of a settlement on the Bill.

The Federation of Unions of South Africa (Fedusa) has already publicly indicated that it is willing to accept the Bill in principle and iron out remaining issues with Government and business at the negotiating table.

Labour is demanding six months' maternity leave (with at least four months paid), a 16-year child labour threshold, a 40-hour working week to be phased in over a period of five years and a variation model that will not allow the erosion of minimum employment standards once agreed upon.

Mboweni said the variation of

employment standards was included in the Bill to provide a framework within which employment standards could be varied through collective bargaining agreements.

He said the Bill was intended to protect unorganised workers as well as to promote collective bargaining. "The aim is to allow more room to manoeuvre at the bargaining forum instead of having everything legislated. What would be the point of having collective bargaining?"

The Bill is expected to be tabled in Parliament on September 15, should the parties reach consensus within the August 15 deadline.

SA NEWS DIGEST

□ LABOUR

Mboweni says 'sufficient consensus' on draft bill

(166) CT (PBR) 6/8/97

Sufficient consensus between organised labour and business on the Basic Conditions of Employment Bill might be in the offing, Tito Mboweni, the labour minister said yesterday. He told the Pretoria Press Club the second-best solution for the impasse on the bill would be for business and labour to support the broad thrust of the bill with a few reservations. "I think we are moving in that direction. That is what I referred to as sufficient consensus."

The primary objective was to get total agreement on the bill; "but in life you don't always get the first prize", he said. "Remember, we did not even get general consensus in the constitution. We got sufficient consensus, and it is still a wonderful constitution." Mboweni said he hoped a meeting between the ANC and Cosatu within the next few days would yield an agreement which was essential before the bill could be introduced to parliament on September 15. "I don't want the bill overturned," Mboweni said — *Sapa, Pretoria*

Cosatu will have to return to negotiations — Mboweni

Stephané Bothma

PRETORIA — The Congress of SA Trade Unions (Cosatu) would have to return to negotiations after its mass action campaign, to allow sufficient consensus to be reached on the Basic Conditions of Employment Bill, Labour Minister Tito Mboweni said yesterday.

"There is only one way to resolve this issue; and that is through negotiation," Mboweni said at a Pre-

torria Press Club lunch

However, Mboweni said, it was organised labour's constitutional right to embark on protest action

Stressing the urgency of reaching consensus before August 15, Mboweni said the parties were now entering inquiry time.

The controversial bill was scheduled to be tabled in Parliament on September 15.

"Should agreement or consensus not be reached within the next 10

days, the bill might not come before the House in this sitting," Mboweni said at the lunch.

He expected that all the political parties in Parliament, except the African National Congress (ANC), would oppose the bill and therefore ANC MPs had to be sure that the bill had the support of both organised labour and business

The ANC would be meeting within the next few days to discuss the state of affairs

"I will also have to make sure that every ANC MP is in the House that day to vote in favour of the bill," Mboweni said.

Asked what the possible consequences might be if labour and government reached an agreement but labour and business failed to agree, Mboweni said that "labour and business must reach a point where they say the bill must get through Parliament, despite a few reservations"

Outstanding issues regarding the bill included labour objecting to the provisions for maternity leave, Sunday work and the minimum age of employment, while business was opposed to the suggested overtime rates and notice period provisions in the bill

"But all of these can be resolved," Mboweni said

"There is no such thing, in negotiations, as a train smash or a non-negotiable," he said

BSA considers labour bill media campaign

Reneé Grawitzky (166) DD 8/8/97

BUSINESS South Africa (BSA) is considering embarking on a major media campaign, costing about R250 000, to highlight its position on the Basic Conditions of Employment Bill

BSA's governing body meets today to take a final decision on the campaign.

At the previous governing body meeting on July 24, a number of decisions were taken about the adoption of a media campaign and the possibility of taking legal action against the Congress of SA Trade Unions' (Cosatu's) planned strikes from August 18

BSA believed Cosatu's strikes did not comply with the spirit and provisions of the Labour Relations Act and had conveyed this to Cosatu

Business sources said yesterday no final decision had been taken on the media campaign as not all of BSA's constituencies supported this approach. A decision on legal action against Cosatu was pending

A political analyst said yesterday that if some form of understanding could be reached between Cosatu and the African National Congress on the Basic Conditions of Employment Bill, business interests could effectively be cornered

ut of this nature will be

NORTHERN PROVINCE
Pretoria 06/20
/21

KWAZULU-NATAL
Ladysmith 05/23
Durban 08/24

EASTERN CAPE
George 07/17
East London 08/19

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Cosatu may budge on

draft employment bill

Less maternity leave the first move?

(166)

ARL 11/8/97

TIBBO MABASO
BUSINESS REPORTER

The Congress of South African Trade Unions (Cosatu) could be close to a

compromise on some of its demands over the controversial Basic Conditions of Employment Draft Bill, labour observers say.

Negotiations over the proposed legislation between business and labour have reached a deadlock.

Industrial relations practitioner Gavin Brown told the Cape Argus the first compromise by the federation could be on its demand for six months paid maternity leave.

If implemented, the demand for paid maternity leave could make women of child-bearing age unemployable, he said.

The bill proposes three months maternity leave as a minimum condition for all workers. Cosatu has called for six months, four of them on full pay.

Minister of Labour Tito Mboweni has said the issue was close to resolution. Speaking at a Cape Town Press Club

lunch last week, he said the union movement had indicated it was willing to settle for four months leave as long as it was paid leave.

"This is fine," he said. A task team set up to look into maternity leave had recommended the best mechanism for payment would be through the Unemployment Insurance Fund.

"Now we need to decide who must be covered - for instance, must domestic workers be covered? And at what level of pay?"

"But we really feel the issue has been resolved," Mr Mboweni said.

Mr Brown said Cosatu may be prepared to scale down its demands on maternity leave so as to protect women of child-bearing age from discrimination in recruitment.

"Implementing six months paid leave would mean there'd be discrimination against women, Cosatu knows this and I think their earliest concession could be on this," Mr Brown said.

He thought Cosatu could compromise on all the demands it has made, except the

one on a 40-hour working week. This demand had historical importance for Cosatu. But employers were unlikely to compromise on this.

"Bosses would have to increase their wages by 17% if employees had to suddenly work a 40-hour week instead of 45 hours," Mr Brown said.

University of Cape Town industrial relations professor Frank Horwitz said the debate around the 40-hour working week seemed to be the most critical.

"If compromise is what is needed, my sense is it needs to be around the question of work hours," he said.

Mr Brown identified the provision on overtime pay as an area where business might compromise, especially if small businesses were excluded from it.

Mr Brown also said Cosatu could also be forced to back down on its insistence not to allow variation on employment conditions by individual agreement.

The bill gives the Labour Minister power to vary work standards downward under certain conditions.

160 000 union members urged to back strike today

BUSINESS REPORTER

The Southern African Clothing and Textile Workers Union (Sactwu) has called on its 160 000 members to support the one-hour strike today over the Basic Conditions of Employment Bill.

Sactwu said in a statement that the strike, called by the Congress of South African Trade Unions (Cosatu), had been endorsed by all union structures and shop steward meetings throughout the country.

Sactwu members supported Cosatu's demands for a phased-in 40-hour working week, paid maternity leave and a 16 years age limit on employment, the union said. Sactwu

(166) also called on its members to support regional one-day strikes, the first of which has been set for the Eastern Cape on August 18.

The union's national executive committee had also supported Cosatu's call that the bill be put before Parliament this year if business, labour and the Government failed to agree on the legislation in negotiations in the National Economic Development and Labour Council (Nedlac).

The statement said the union was confident that should negotiations fail to resolve the dispute, the African National Congress majority in Parliament would "upon serious reflection" vote in support of improving the draft bill.

Cosatu to go ahead with strike action to fight

8/21/89 13/8/94

It refuses to budge on demands for a 40-hour week and 6 months' maternity leave, and plans to down tools to break deadlock

By PATRICK PHOSA

The Congress of South African Trade Unions is to go ahead with its planned series of strikes next week to fight the continuing deadlock on proposed legislation relating to working conditions.

Cosatu spokesman Nowethu Mpati said yesterday Cosatu would intensify its mass action programme in protest against

the Basic Conditions of Employment Bill

The trade union staged an hour-long work stoppage last Monday to press for its demands.

Mpati said Cosatu would not compromise on its demand for a 40-hour working week and six months' maternity leave - at least four months of which should be paid.

Cosatu also opposes employ-

ers' right to apply for exemption from minimum standards set out in the bill.

At the moment, employers are giving workers three months' maternity leave. The Government is proposing a 45-hour working week - which currently ranges from 46 to 68, depending on the type of work - and four months' maternity leave. No decision has been taken on maternity-leave payment.

Mpati said Cosatu had reached its bottom line, but the union federation was open to any negotiations with the Government, the ANC, and Business South Africa

"We are prepared to look at new proposals that will be favourable to our members. If they come closer to our demands we will call a special executive meeting and discuss whether they are acceptable."

The first strike would be held on August 18 in the Eastern Cape; then on August 19 in KwaZulu Natal and Mpumalanga. On August 20, members in the Northern Cape, Free State and Western Cape would stop work

Cosatu members in Gauteng, the Northern Province and North West would down tools on August 21. If passed into law, the bill

would replace the Basic Conditions of Employment Act and the Wage Act, and lay down the basic working conditions for workers countrywide

Business South Africa spokesman Adrian du Plessis said the organisation's door remained open to exploring options which could result in a settlement around the issues in the bill. "These are difficult and

complex issues which will leave a long legacy in the labour market.

"We have to get this right because the labour market will carry the consequences, such as higher unemployment and poverty," he said

Du Plessis said the only sustainable way forward was through negotiations, adding that protests would destroy the economy

labour bill (166) (166)

Fedusa says talks must be at Nedlac

(166) CT (BR) 13/8/97
FRANK NXUMALO

Johannesburg — The Federation of Unions of South Africa (Fedusa) said yesterday it would prefer to settle the dispute around the draft Basic Conditions of Employment Bill at Nedlac, and not in the streets or in a fight in parliament.

Dannhauser van der Merwe, Fedusa's general secretary, said the fact that national strikes around the Basic Conditions of Employment Bill and other labour issues have solicited comment by both President Nelson Mandela and Tito Mboweni, the labour minister, "proves the seriousness of the matter and the critical stage that we are entering this week"

He said Nedlac's goals and principles had to be respected, and that Fedusa, which claims a membership of 500 000, remained committed to negotiations at Nedlac

Van der Merwe said the federation was "aware" that the bill was about "minimum and not maximum standards".

He said Fedusa did not support Cosatu's demand for a 40-hour working week, though it would like to see a "40-hour week phased in over a period of not more than five years"

Mboweni confident of agreement on labour

DD 13/8/97

(166)

LABOUR Minister Tito Mboweni said, yesterday he remained upbeat that sufficient consensus would be reached between business and labour on planned employment legislation by the first of a series of deadlines on Friday.

Reuter reports he said: "Friday is key. I am optimistic that sufficient agreement will be reached in order for us to meet our deadlines." He told journalists a series of "urgent" meetings were taking place with labour and business be-

fore the deadline for parties to reach broad consensus on outstanding issues on the Basic Conditions of Employment Bill.

"It's tight but I am not worried what we are wanting is a basic floor of rights for workers and I am optimistic that we will find each other by Friday," Mboweni said. This was necessary if the bill was to be presented to Parliament by September 15. "By Wednesday next week it will have to be re-drafted and by Thursday it will be

circulated to cabinet ministers for consideration." It would then be passed on to cabinet committees.

Labour and business remained deadlocked over key clauses in the bill. But they appeared set to agree on terms for the payment of maternity leave benefits — a key issue — out of the Unemployment Insurance Fund.

Business remained unhappy about proposals to raise overtime rates and provisions for three days' family responsibility leave

While business had agreed to cut the working week from 48 to 45 hours as proposed in the bill, labour wanted a commitment to a 40-hour week.

Meanwhile, René Grawitzky reports that Business SA resolved not to start a major media campaign this week highlighting its position on the bill after its governing body failed to reach consensus on the issue.

Business sources said organisations opposing the campaign be-

lieved the timing would harden the Congress of SA Trade Unions' (Cosatu) attitude.

Some members felt the decision implied "business was running away from conflict" and that it would have been the last opportunity to influence people.

Labour ministry spokesman Estelle Randall said yesterday that if no agreement was reached by Friday government would have to consider "where to from here". The African National Congress

said it remained committed to finding a solution.

Sapa reports that Cosatu spokesman Nowetu Mpati said the union federation was preparing for a series of 24-hour strikes next week to back its demands.

Affiliates would strike in Eastern Cape on Monday, in KwaZulu-Natal and Mpumalanga on Tuesday, in Northern Cape, Free State and Western Cape on Wednesday and in Northern Province and North West on Thursday.

Bill

Small business may be sacrificed in labour bill

(166) 
CHRISTO VOLSCHENK

ECONOMICS EDITOR

CF (M) 14/8/97
Cape Town — The chances were dwindling for small businesses to get temporary relief from some cost-increasing measures included in the Basic Conditions of Employment Bill, industry sources said yesterday.

With only days left for Tito Mboweni, the labour minister, to squeeze "sufficient consensus" out of labour and business on outstanding issues in the bill, and a week to table the final bill to cabinet for approval, Mboweni had apparently decided not to complicate matters by introducing new issues, the sources said.

The Small Business Project, the private sector think-tank, had suggested a new clause be added to the bill that gives businesses with fewer than 50 workers special relief from cost-increasing measures such as time-and-a-half payment for overtime work. However, on Fri-

day Mboweni said the suggestion was not being considered for inclusion at this late stage.

Once the cabinet approves the bill, it will go to the portfolio committee on labour for debate before it is tabled in the National Assembly on September 15.

Mboweni said recently he would rather investigate the possible harmful effects of the bill on small business after it had become law. "If there are problems for small businesses, we can address them with exemptions already allowed in the bill."

The bill empowers the labour minister to exclude small businesses from some of the provisions of the bill "if there is good reason to do so."

Mboweni said he would be able to exclude a basic condition after he got advice from the Employment Conditions Commission and comment from the public. Employers could ask the minister to replace or exclude any basic condition in the bill.

Business and labour have been at loggerheads over the length of the working week. But as CAROL PATON reports, their war of words bears little relation to what is happening on the ground

The long and the short of the working week in South Africa

Workers across the economy sweat as their bosses do battle with their unions

(166) (200) ST 17/8/97

WHEN Adam Mahlalele, a long-distance truck driver, pulled into the Johannesburg depot of the transport company where he works on Thursdays, he had been on the road for 11 days

Mahlalele had driven his fuel tanker to Congo and back, clocking 193 hours of driving. On his longest day, he began at 4.30am, parking his rig at 2.30am the next day. On an average day, he drove from 5am to 11pm.

Tomorrow he will head back to Congo, with no time for even a fleeting visit to his family in Nelspruit.

The struggle to reduce working hours is at the heart of the wrangle over the proposed Basic Conditions of Employment Bill. For both the unions and business, the 40-hour week is the single most important question at stake in negotiations about the Bill.

But what would be the effect of introducing a 40-hour week? And how long do South Africans work?

The Basic Conditions of Employment Act sets working hours at 46 but many of the strongest unions have already negotiated lower weekly hours through statutory bargaining councils.

For example, production workers in the metal and engineering sectors work a basic 43-and-a-half-hour week and those in the textile and garment industry work 42 hours.

Some companies have already agreed to a basic 40-hour week.

But the propensity of South African employers to use overtime, and the willingness of many workers to work it, stretches the working week, usually by about five hours.

Overtime pay — considered cheaper than employing more people — is an enormous incentive to workers. Says July Moloi, a truck driver: "You're always rushing because you know you're going to get more money."

Moloi and Mahlalele earn a basic weekly wage of R548, but after overtime they take home about R1 200.

While production workers in South Africa work a long week by any standards, their white-collar counterparts work much less.

International Labour Organisation statistics show that in 1995, office workers in the metal and engineering industries worked about 43 and a half hours a week and those in factories worked 49.

Rob Rees, a researcher for the Cosatu policy think-tank Naledi, says as a result, office workers work five and half weeks less a year than factory workers — a stark indication of who bears the burden of hard work in South Africa.

This pattern is evident throughout the manufacturing sector — and Glen Adler of Naledi says it coincides strongly with race.

Long working hours for black production workers are exacerbated by the great distances between home and work and inadequate, expensive public transport, he says. He estimates travel can add up to two hours to a working day.

This means exhaustion and health problems, more risk of injury and limited time for family, recreation or studying, he says. For women it means organising childcare for long absences.

For Cosatu, what all this amounts to is that black workers in particular work too long. The unions say a shorter working week would mean a happier, health-

ier and more productive employee.

That a shorter working week could have positive spin-offs for productivity is an idea many employers have shown themselves willing to entertain.

But most oppose any move to reduce working hours through legislation — whether it be by one hour to 45 hours as proposed by the Bill, or by imposing the 40-hour week as a basic standard through a phase-down over a number of years, another proposal in the talks.

Hans Smith, the chairman of Business South Africa, says: "There are organisations where they are at 40 hours, which they have negotiated, and we support that. But what we're talking about is a basic condition."

He adds: "We're now part of the global village and, in the light of who we are competing against and the fact that we are at the bottom of the commodity cycle, this means this is a very strained time in our ability to decrease working hours and increase labour costs."

Smith compares South Africa with other countries in the developing world where working hours are far longer.

In Brazil, for instance, standard working hours are set at 44 — a recent reduction from 48 in 1988. As in South

Africa, a lot of overtime is worked.

In Asia, both weekly hours and overtime levels are high. Korea, for example, works just under 49 hours.

In western Europe, working hours are in the range of 35 to 37 hours. In the US, the average working week is about 35 hours, but low annual leave means workers work more hours a year than do their European counterparts.

But comparisons of working hours only may not be that helpful in determining whether South Africa is working hard enough or not.

As Business South Africa, Cosatu and the government throw punches over the issue, many chemical-sector employers are quietly settling plans with unions to phase in a 40-hour week.

The chemical sector has, admittedly, got a shorter road to travel than the rest of manufacturing in reducing hours.

But the philosophy informing employers is also simply that productivity is not so much about working longer as it is about working smarter. The industrial rubber sector, for example, is likely to agree soon to phase down working hours to 40 over the next five years.

David Duncan, a spokesman for rubber employers, says: "Each hour we

phase down without loss of pay means a 2.2 percent rise in labour costs, so of course there are big productivity implications. One would hope that if the mind-set is right, productivity could benefit from a shorter working week."

Duncan says the agreement employers hope to sign with unions will establish a joint working party to make long-term survival plans for the industry, where the number of jobs has shrunk.

The global economy and cheaper imports are largely responsible for a new attitude among management, who are looking for new ways to survive.

"We've got to be pragmatic. By entering into a spirit of co-operation we can create a future for ourselves."

Ironically, this is what Adler and his colleagues are saying if the 40-hour week is to result in workers working smarter, not harder, the debate must shift to the search for a common vision between business and labour.

But at the broad economic level, achieving such a vision may be impossible. A legislated 40-hour week throws up problems for continuous operations, most of which work on a 42-hour shift system, and small businesses, farms and unsocial jobs like truck driving.



THANK GOODNESS IT'S FRIDAY: Adam Mahlalele, who spends all week at the wheel of his fuel tanker

Picture BRETT ELOFF

Cosatu will go ahead with strikes

Sowetan 18/8/97

By Abdul Millazi

THE Congress of South African Trade Unions (Cosatu) will go ahead with its four-day mass action beginning today despite having missed the deadline to reach consensus with business on the Basic Conditions of Employment Bill

Labour Minister Mr Tito Mboweni a week ago warned that the Bill would be withdrawn if no consensus was reached by last Friday

He argued that there would not be enough time for it to go through the parliamentary process

A last-ditch effort by Mboweni to facilitate a settlement between the two parties at a special meeting last Thursday failed

Cosatu spokeswoman Ms Nowetu Mpati said "Nothing came out of the Thursday meeting and we are continuing with the mass action. If there was an agreement we would have called a special executive meeting to call off the action"

Mpati said the federation's 1.9 million members would embark on strikes in major cities, towns and industrial

areas until Thursday

"Cosatu has maintained throughout the negotiations that while there are some improvements in working hours in so far as there is a reduction in working hours for security workers, farm workers, domestic and mining workers, the Bill makes no provision for a legislated 40-hour week," Mpati said

"Government and business's approach on the 45 hours for mining workers, farm workers, domestic workers and security workers means that even where we thought there was a gain for such workers it has vanished into thin air"

She said Cosatu was opposed to the variation model in the Bill "in so far as it seeks to allow for downward variation of certain rights"

The wide discretionary powers given to the minister to vary employment standards, and the provision for individual employers to change the provisions of agreement with their employees, were also opposed

The strikes will begin today in the Eastern Cape

Strikes will be accompanied by marches to the offices of Business South Africa

Ture for Biko's day

By Khathu Mamaila

ALL Africa People's Revolutionary Party leader Kwame Ture, formerly known as Stokeley Carmichael, confirmed that he would attend the commemoration of the death of Black People's Convention leader Steve Biko next month

Azanian People's Organisation president Mr Mosibudi Mangena told *Sowetan* yesterday that Ture, who was a leader of the United States-based Black Panther movement, would attend the event which will be held in Ginsberg in the Eastern Cape

"He is very excited," he said

COSATU'S EMPLOYMENT BILL STRIKES START TODAY (166)

Johannesburg — Cosatu, the trade union federation, will start a series of regional strikes today to highlight its demands over the Basic Conditions of Employment Bill

A Cosatu spokesman said last week there had been no breakthrough on the bill in a last-ditch meeting with the ANC last Thursday night

Today's action will be concentrated in the Eastern Cape, with the other provinces scheduled to embark on protests later in the week

The government's inability to reach agreement with labour means the first of a series of deadlines for the resolution of the impasse set by Tito Mboweni (pictured), the labour minister, has been missed — Reuter



CT(BR)18/8/97

Cosatu to protest against employment bill

BD 18/8/97

Reneé Grawitzky

CONGRESS of SA Trade Unions (Cosatu) members take to the streets today to highlight demands on the Basic Conditions of Employment Bill, but its special executive committee is to meet on Thursday to consider an African National Congress (ANC) proposal to break the deadlock, sources say

The ANC remained tight-lipped about the outcome of hours of talks between it, Cosatu and the SA Communist Party, including an all-night ses-

sion on Thursday night

Cosatu, conscious of its members taking to the streets today, dispelled any claims of a possible deal

Cosatu general secretary Sam Shilowa said: "There is no basis for a settlement as such claims are only to try and confuse workers." He indicated that on Friday both parties agreed to report back to their organisations to discuss the issues raised

Business rejected the twin strategy

Continued on Page 2

Cosatu

Continued from Page 1

of negotiations and protest action as well as its exclusion from meetings to break the deadlock

Business South Africa spokesman Adrian du Plessis said a settlement had to be inclusive of all the parties and could not be reached at the ex-

pense of any one of the social partners, "simply to the extent that this legislation requires the support of all"

Cosatu members begin four days of regional 24-hour strikes starting in the Eastern Cape today.

KwaZulu-Natal and Mpumalanga will be targeted tomorrow, with Free State, Northern Cape and Western Cape targeted on Wednesday and Northern Province and sections of Gauteng on Thursday

Sowetan 19/8/97
(166)

Mandela meets NUM and Numsa

By Abdul Milazi

PRESIDENT Nelson Mandela yesterday paid a surprise early morning visit to two of the Congress of South African Trade Unions' biggest affiliates to help find a solution to the Basic Conditions of Employment Bill dispute

He met the National Union of Mineworkers (NUM) and the National Union of Metalworkers of SA (Numsa) separately

This raised hopes of a settlement, despite continuing protest action by Cosatu members. Mandela's visit follows "encouraging progress" during talks between Cosatu and its alliance partners last Thursday

The federation's leadership were yesterday again locked in talks with the tripartite alliance (African National Congress, Cosatu and the SA Communist Party). This second alliance meeting comes before a special session of Cosatu's executive

Madiba's surprise visit raised hopes

council scheduled for Thursday at which progress will be reviewed

Cosatu's Nowetu Mpati said "On our part, we intend to table these proposals at a special executive council meeting scheduled for Thursday"

Alliance summit

Mpati said the meeting had been arranged to evaluate the four-day mass action which began yesterday. Cosatu is also to use Thursday's meeting to prepare for the alliance summit scheduled for Friday and Saturday

The possibility of a settlement was played down last week when Cosatu emerged from talks with its alliance partners and said "no resolution had been found"

Given Labour Minister Tito Mboweni's preference to have a settlement in place by last Friday, Cosatu's statement dampened hopes of a deal

Mpati, however, said after the meeting "The alliance, particularly Cosatu and the ANC, agreed to take back to their respective organisations the proposals made

"Further meetings are planned as soon as any of the parties consider the proposals on the table, or new ones aimed at resolving the current impasse"

Mboweni told *Sowetan* earlier that the differences between business and labour were not serious enough to stop the Bill from going to Parliament

Labour is demanding six months maternity leave, with four months paid, a 40-hour working week and a model for the variation of employment standards which does not permit possible downward variation of basic conditions. The Bill offers a 45-hour working week and four months' unpaid maternity leave

Labour bill to go ahead — Mboweni

CT 19/8/97

(166)

LABOUR Minister Mr Tito Mboweni has not shifted the deadline of September 3 for cabinet approval of workplace legislation despite a week of strike action by the Congress of SA Trade Unions to force last-minute changes

The union federation — which forms part of the tripartite alliance with the ANC and the SA Communist Party — also gave notice that when the bill is presented to the labour committee of the National Assembly it will spark a further set of strike actions

Mboweni's spokesperson Ms Estelle Randall said the bill was still scheduled to be tabled in Parliament on September 15. She would not say whether the minister would

hold further talks with labour to settle the dispute on the bill

Last week all-night talks between Cosatu and Mboweni failed to reach a compromise

With KwaZulu-Natal and Mpumalanga workers set to strike for 24 hours today, the Western Cape scheduled to follow tomorrow and Gauteng and surrounding provinces on Thursday, Cosatu vowed yesterday that its demands would be met in the Basic Conditions of Employment Bill

The major sticking point remains the 40-hour week while the bill provides for 45, and differences over maternity leave

Cosatu official Mr Tony Ehrenrecht told a media conference in

Cape Town that business was serving a racist agenda as artisans were being offered better wage deals because they were predominantly white, while black workers such as pump jockeys were being offered three percent pay hikes

The strike action was directed against business, not against government, another Cosatu official, Mr Randy Pieterse, emphasised yesterday "It is not aimed at damaging the economy"

A Popcru (Police and Prison Civil Rights Union) spokesman Mr Eddy Johnson said while its members supported the strike action, they were prevented from participating by the law

SACP national chairman Mr

Blade Nzimande — an ANC MP — said last night that his party's position was that they had the right to engage in mass action. His party also supported the demand for a 40-hour week, but how to implement it would be an issue

He said business needed to put a plan on the table to offset the view that it was only interested in "super-profits"

South African business had become spoilt as it was used to "super-exploitation of black labour"

Workers could not be expected to take into account the broader economic situation while business was not making "any sacrifice whatsoever" — Political Staff

Cosatu's stayaway support hits 90%

CT(MR) 19/8/97(166)

JACK DEWES

Port Elizabeth — About 90 percent of Cosatu-affiliated workers supported yesterday's one-day strike, which dealt a severe blow to industry and commerce in the Eastern Cape and neighbouring Uitenhage, sources said yesterday

A snap survey at noon, carried out by the Port Elizabeth Regional Chamber of Commerce and Industry, showed that 70 percent of workers at the Delta Motor Corporation were absent, with the rest doing odd jobs. Volkswagen had a 90 percent stay-away

The engineering industry came to a standstill, as did the tyre industry. Small suppliers to the car industry said the stayaway was between 80 and 85 percent

Most clothing industry companies, where an average of 15 percent of workers showed up, were wholly inactive

Kevin Wakeford, the chamber's chief executive officer, estimated the damage at R28,32 million in lost wages, R140,4 million in lost turnover and a R72 million a day loss of contribution to gross domestic product

At issue is the new Conditions of Employment Bill. Cosatu has vowed to spread the strike to other provinces

John Gomomo, the national president of Cosatu, yesterday addressed a large crowd in Port Elizabeth, urging solidarity and appealing to Cosatu members employed in the bus and taxi industries to join the 24-hour strike. Fewer taxis and buses than normal were seen in the streets of Port Elizabeth and Uitenhage

The strike came after a warning to workers from Chris Steenekamp, the president of the chamber, who said they held their economic destiny in their hands, that unemployment was spiralling, and job opportunities



LOUD AND CLEAR Cosatu's John Gomomo urges solidarity

PHOTO: JOHN WOODROOF

vanishing

More than 1 000 jobs had been lost here as a result of competitive inefficiencies so far this year

Gomomo wanted the strike to spread from Port Elizabeth to other major centres. While commerce and industry suffered from strikes, so did the strikers, who wanted business and government "to look at the issues so that the problem can be solved"

Gomomo said there had been a "long-standing deadlock" with the government and business over the Conditions of Employment Bill, including such aspects as the demand for a 40-hour working week, maternity leave (six months) and the legal working age (16)

"In Germany they have a 35-hour working week. We want workers in South Africa to enjoy the same working conditions as other workers in the world. As long as the deadlock on these issues continues, workers should adhere to the call for protest action, which is in their own interests," he said

Cosatu to strike over hours and maternity leave

ARG 19/8/97

(166)

March set for tomorrow

JOSEPH ARANES
STAFF REPORTER

The Western Cape region of Cosatu has called on members to strike tomorrow in support of demands for a 40-hour week and six months' maternity leave to be included in the Basic Conditions of Employment Bill.

A 48-hour national strike early in September, when the unions and business make their submissions on the Bill to Parliament, is also on the cards.

Regional chairman Randy Pieterse said that while the union federation was not out to cripple the economy, it had had enough of the arrogance and intransigence of Business South Africa during the negotiations on the contents of the Bill.

"We are determined and our strike is part of a broader national campaign to show the government and big business

that we are serious about democratising our places of work."

Cosatu affiliates in the Eastern Cape went on strike yesterday. Members in KwaZulu-Natal will down tools today and in Gauteng on Thursday.

Other demands include double pay for working on Sundays and a minimum working age of 16 years.

Mr Pieterse said workers would assemble on the Grand Parade at 10am and march to the Adderley street offices of Business South Africa. Workers from the other large union federation, Nactu, and several independent trades unions - and students - are expected to show their support for the workers' demands.

A Cape Chamber of Commerce and Industry spokesman said it was unfortunate that Cosatu had chosen to go ahead with industrial action as it was just adding to the country's economic woes.

Mboweni ploughs on with labour bill

POLITICAL STAFF

Cape Town - Labour Minister Tito Mboweni has not shifted the deadline of September 3 for Cabinet approval of workplace legislation, in spite of a week of strike action by the Congress of SA Trade Unions in a bid to force last-minute changes.

The union federation also gave notice that when the bill is presented to the labour committee of the National Assembly it will spark a further set of strike actions

Mr Mboweni's spokeswoman Estelle Randall said the bill was still scheduled to be tabled in Parliament on September 15. She declined to comment on whether the minister would hold further talks with labour to settle the dispute on the bill.

Last week, all-night talks between Cosatu and Mr Mboweni failed to reach a compromise. KwaZulu Natal and Mpumalanga workers are set to strike for 24 hours today, the Western Cape tomorrow and Gauteng and other provinces on Thursday.

Eastern Cape workers heed strike call

Renee Grawitzky

THE Eastern Cape was badly hit by trade union federation Cosatu's 24-hour strike yesterday in support of demands on the Basic Conditions of Employment Bill, with 80% of workers heeding the call, employer organisations said.

As the regional strikes move to KwaZulu-Natal and Mpumalanga today there is growing speculation that Cosatu's special executive committee might on Thursday be forced to accept a compromise deal to break the deadlock. At the same time concern was expressed within Cosatu ranks that worker power was being misused by the continued call for strike action.

A labour source said the matter would be resolved one way or another as there was concern that the bill would not be tabled in Parliament at all. Although Cosatu was adamant

about four months' paid maternity leave and a commitment to a 40-hour week, a compromise could be found. However, the major stumbling block was on the variation of standards.

A source close to the process said the variation model was at the heart of the bill and if this was not included "we can live with" the law as it is.

Port Elizabeth Regional Chamber of Commerce and Industry CEO Kevin Wakeford said about 90% of Cosatu-affiliated workers in Port Elizabeth-Uitenhage did not go to work yesterday. Between 20% and 30% of workers in the area were not Cosatu members.

Cosatu said more than 95% of workers participated in the action. The high level of support "sends a clear message to business that workers are willing to go out in support of their demands and this will continue to happen unless employers change their attitudes".

Business SA negotiator Adrian du

Plessis said talks with Cosatu stopped weeks ago at the federation's insistence and positions on both sides could be reviewed only if talks resumed. "That must be the urgent priority and the only way to settle the dispute."

The chamber estimated the stay-away could result in R117,1m in lost turnover and R23,6m in lost wages.

A chamber snap survey found that motor manufacturers and their suppliers were affected, as were the engineering, tyre and clothing sectors. Buses and taxis did not operate.

Afrikaanse Handelsinstituut spokesman Manuel de Silva said a large number of its members were affected in the urban areas.

Chamber president Chris Steenkamp said the strike was inappropriate and damaging to the local economy. He said the region had been affected by more than 1 000 retrenchments while unemployment rose 7% in January.



Thousands of Congress of South African Trade Union (Cosatu) members yesterday marched through a street in Durban protesting against the draft Basic Conditions of Employment Bill. Many companies were hit hard as workers stayed away from work to heed Cosatu's call for a 24-hour strike.
PIC MASTER MOSUNKUTU

Strike keeps rolling

Thousands heed Cosatu's call to stay away from work

By Mbulelo Baloyi and Sapa

THOUSANDS of workers in KwaZulu-Natal yesterday heeded a stayaway call to back the Congress of South African Trade Unions' week-long rolling mass action aimed at forcing changes to draft workplace legislation.

In the Eastern Cape thousands of workers yesterday heeded the Cosatu call, bringing many businesses in the province to a standstill.

And in the Western Cape bus services to and from Cape Town's black townships are expected to be disrupted from this morning and tomorrow because of the participation of some of its staff in the 24-hour Cosatu strike. Golden Arrow Bus Services announced yesterday.

Company general manager Hanes Grebe said yesterday other services would operate as usual with only minor changes due to the support of the majority union, the Transport and Omnibus Workers Union.

Cosatu is demanding a 40-hour week and six months' maternity leave. The grant labour federation is also demanding changes to the draft Basic Conditions of Employment Bill.

Labour Minister Mr Tiro Mboweni is scheduled to table the Bill in Parliament on September 15.

Cosatu KwaZulu-Natal secretary Mr Paulus Ngcobo told workers at Durban's Curries Fountain that the labour federation would not renege on their campaign for better working conditions.

"For the working people of South

Africa, the struggle for decent living and humane working conditions is far from over," Ngcobo said.

Cosatu deputy president Ms Connie September also told workers that the labour federation would not apologise for their week-long mass action.

Occupy the streets

"This mass action is sending a clear message to the employers that unless they settle with us (on the draft workplace legislation), we will continue to occupy the streets of South Africa."

September also lambasted the hypocrisy of South African employers who were always at the ready to "wave the flag" for the victorious Bafana Bafana.

"We want them to translate that

patriotism into getting rid of apartheid in the workplace," September said.

She also cautioned the African National Congress led Government that it must not be dissuaded by people who would not vote for them.

"We, as the working people of this country, have put you in power and do not be scared by those who say, by giving workers a 40-hour week, you will scare the investors away."

She said workers would not wait until South Africa hosted the Olympics to enjoy favourable working conditions.

"We want the 40-hour week and the six months' maternity leave now," said September to applause.

Cosatu members then marched to the steps of the Durban City Hall where they handed a memorandum to

a Durban Chamber of Industry and Commerce representative, Mr Neil McGregor.

The chamber reported 60 percent worker absenteeism in the Greater Durban area. Other marches were held in Pietermaritzburg, Port Shepstone, Empangeni, Newcastle and Isithebe.

Police reported sporadic incidents of stone-throwing in Umhlanga outside Durban. Most of the schools in the province's townships were closed.

About 90 percent of Cosatu-affiliated workers in the Port Elizabeth and Uitenhage areas stayed away from work, which cost them R23,6 million in wages and businesses R117,1 million in turnover, said chief executive of the Port Elizabeth Chamber of Commerce Mr Kevin Wakeford.

Source: Sowetan 20/8/97

(166)

'60% of workers' in KwaZulu-Natal heed

Reneé Grawitzky

BD 20/8/97

SIXTY percent of workers in KwaZulu-Natal heeded the Congress of SA Trade Unions' (Cosatu's) call for a 24-hour strike yesterday to back demands on the Basic Conditions of Employment Bill, business organisations estimated. Workers in Mpumalanga also stayed away. Sapa reports that busses in Umlazi township south of Durban were stoned while two taxis were set alight. Marchers gathered at the Curries Fountain sports ground from where they marched peacefully through the city centre

to the city hall. Cosatu vice-president Connie September handed a memorandum of the federation's grievances to Business SA representative Neil MacGregor. MacGregor said he would take the memorandum to the Durban Chamber of Commerce and other stakeholders who would discuss it as a matter of urgency. MacGregor said businesses in the Durban area had recorded an estimated 60% stayaway. The Durban Chamber of Commerce and Industry said a survey showed major sectors including engineering, vehicle manu-

facturing, sugar and textiles were affected by the 24-hour strike. However, the turnout at marches did not reflect the number of workers who stayed away. Employer organisations reported that the strike in Mpumalanga was not nearly as effective as that in the Eastern Cape on Monday. Cosatu estimated that close to 20 000 workers in the province participated in various marches and rallies. Employer bodies indicated that in the major towns of Secunda, Nelspruit, Middelburg and Standerton, the larger national employers were affected while small employers remained unaffected.

Cosatu's Eastern Cape region said the success of Monday's strike action in the region was because people were becoming frustrated and angry that no solution had yet been reached. Cosatu's KwaZulu-Natal secretary Paulus Ngcobo made an appeal to employers to come to the table to negotiate. Ngcobo said business was concerned about the alliance partners meeting to try reach consensus on the bill. Business, he said, believed Cosatu and the ANC were ganging up against it. However, he said, the reality was that the parties were meeting to try and find an amicable political solution.

Cosatu would meet business if it was prepared to negotiate in good faith and change its position, he said.

At the same time Cosatu leaders denied speculation in the media that a deal was in the offing. Cosatu said such claims were merely an attempt to confuse workers.

Bus services to and from Cape Town's black townships were expected to be disrupted today as the rolling regional 24-hour strikes moved to the West Cape region.

ECN reports that Cosatu leaders said they would wait for business reaction to the strikes before considering whether more drastic measures were needed.

strike call

Union federation strike on bill has mixed results

(166) BD 2/8/97

René Grawitzky

GOLD and diamond mines in the Free State and Northern Cape were affected by the Congress of SA Trade Unions' (Cosatu's) 24-hour strike linked to the Basic Conditions of Employment Bill while there was a lower than expected turnout in the Western Cape.

Western Cape employer organisations said despite the Cape Town march, the effect of the strike had not been widespread, with an estimated 25% of the workforce staying away.

Reuters reported that Cosatu general secretary Sam Shilowa told 5 000 workers in Cape Town that no settlement of the dispute was in sight. He said an executive committee meeting tomorrow would decide "where its next move would be".

Western Cape Employers surprisingly reported that the clothing industry was only marginally affected with between 5% and 15% of SA Clothing and Textile Workers' Union (Sactwu) members staying away. It is believed that big employers such as Rex Trueform were marginally affected.

The Cape Chamber of Commerce and Industry did, however, concede that there was no noticeable trend as the engineering industry, for example, reported a 50% stayaway.

Cosatu yesterday claimed that 137 000 workers in the Free State and Northern and Western Cape heeded the call. Sactwu members, the feder-

ation said, constituted a large number of those staying away.

Cape Clothing Manufacturers Association spokesman Peter Cragg said major clothing employers said it was almost like a normal working day. He indicated, though, that there was higher support for the strike in close proximity to metal or engineering firms.

The textile industry in the Northern Cape appeared to have been hard hit with the Northern Cape Chamber of Business reporting a 70% stayaway in both the textile and mining sectors.

Chamber president Peter Klemp criticised both labour, government and business over the manner in which the negotiations over the bill had been handled to date. He said the process had degenerated into confrontation because of time constraints set by government. He said value existed in both labour's and business's arguments.

De Beers reported a 40% stayaway at its Northern Cape mines and 25% stayaway in Namaqualand.

The National Union of Mineworkers confirmed a number of Free State gold mines were affected but to a lesser extent than anticipated while Anglo American confirmed that production at two sections of Freegold had been affected as workers stayed away.

The Welkom Chamber of Commerce indicated a number of Gengold mines had also been affected. Employer organisations reported a 60% stayaway in the Bloemfontein area.

Unions, employers no

closer after marches

Mon 22/8/97

166

Basic Conditions of Employment Bill still bone of contention

By Adam Cooke

Business and labour continued to fire missiles at each other yesterday, as Cosatu's four-day national programme of action came to an end.

Following the march through Johannesburg yesterday, Cosatu president John Gomo said the week's staggered industrial action in all provinces had been a major success.

Estimates of the number of workers at the march ranged from 15 000 (given by police) to the 100 000 claimed by Cosatu.

"We have achieved our goals. The problem has not been solved but workers have highlighted their need to the public," Gomo said.

Cosatu's demands on the Basic Conditions of Employment Bill, which goes to Parliament shortly, include six months' maternity leave, 16 as the minimum age for employment, and a 48-hour week phased in over five years.

Business backs a maximum working week of 45 hours and four months' maternity leave as

proposed by the Government. Gomo said, while both parties had a responsibility to thrash out the issues, Cosatu would resume talks only when Business South Africa reviewed its mandate.

The Chamber of Business' Raymond Parsons said the mass action had cost the country millions of rands in lost production and wages and had

Mass action hardened attitudes, says Sacob

only achieved a hardening of business attitudes.

"Reports from our members in the various provinces indicate a mixed response to Cosatu's stayaway calls, with worker participation ranging from no support up to 70% support," he said.

"In Sacob's view, this series of regional strikes has been an inappropriate and regrettable way for Cosatu to pursue its objectives," Parsons said.

BSA believed the only way to find a solution to the proposed legislation was for Cosatu to return to negotiations. BSA negotiator Adrian du Plessis said after the memorandum was delivered to him in central Johannesburg yesterday.

The memorandum was read out by Cosatu Witwatersrand regional secretary Dan Mokoape, against whom police have opened a docket for allegedly breaking the pre-agreed march route and time.

Superintendent Carol van den Berg, from the Johannesburg public order policing unit, said Mokoape, as organiser, contravened the Regulations and Gathering Act of 1983 when the march deviated from the pre-arranged route and started an hour earlier than agreed.

Cosatu spokesman Nowethu Mphahlele told Reuters: "Tomorrow the leaders of all 19 affiliates of Cosatu will meet and we will decide on further action."

More than 10 000 Cosatu supporters lined the streets of central Pretoria. The stayaway also affected North West and Northern Province.



Don't give up your day job . . . a marcher entertains the crowd gathered at the Library Gardens in Johannesburg for yesterday's Cosatu stayaway

COMMENTARY & ANALYSIS

Bill jeopardises SA's strategic goals

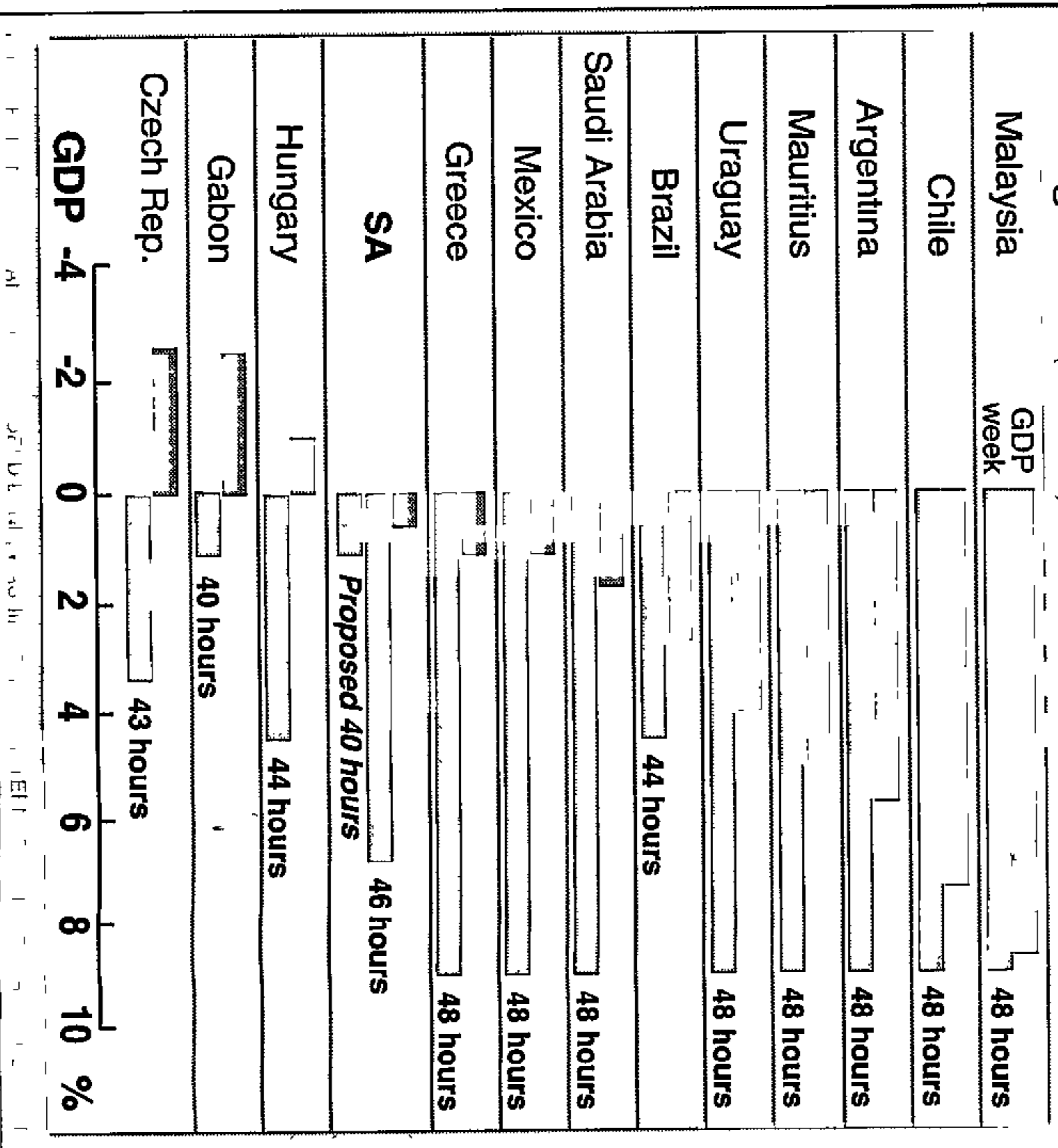
Business SA chairman Hans Smith says that in its present guise, the Basic Conditions of Employment Bill will place SA at a serious disadvantage

BD 12/8/97

(166)

The basic working week

Upper middle-income countries: GDP growth 1990/95 (%) compared to the basic working week (hours)



tunities through an increase in investment in mechanism

The proposed increase in the notice period applicable on termination of service will — by increasing exit costs — raise entry barriers to employment, and therefore also diminish employment opportunities

Family responsibility leave, additional to the increase in annual leave, will reduce further productive working days, and, again, confuses the distinction between what are basic conditions and what are best conditions of employment

The six-month maternity leave, another Cosatu demand, would likewise act as a disincentive to recruiting women and place them at a disadvantage to their male counterparts in terms of hiring opportunities.

Finally, the effect of these and other provisions will be felt most acutely among small, medium and micro-businesses, where the only significant growth in employment in the economy is presently taking place, and which wide experience has shown represent the best hope for employment creation.

Such businesses require particular consideration if new business development is to be encouraged and take root in the society.

Thus it is particularly with regard to the distinction between basic and best labour standards

THE controversy surrounding the proposed Basic Conditions of Employment Bill has generated more heat than light

Cutting through all the special pleading, the key question is what kind of labour market does SA want and need, that will best support the national objectives of economic growth and job creation? This question has to be addressed in a way that is comparable among the world economy

The current SA labour market is an unsatisfactory product of racial division and industrialisation distorted by years of isolation. It is characterised by inequality and inefficiency

Unemployment is at critical levels. Together with low skills formation and relative labour rigidity, the labour market yields a poor productivity record

In short, the labour market suits neither the demands of SA's new democracy nor those of the economic liberalisation transforming workplaces across the globe. SA therefore needs a new labour market policy which can better find the balance between the demands for growth and equity. It is with this goal in mind that business in SA has participated fully in the review of the Basic Conditions of Employment Act.

It is a misconception that business is opposed to all the terms of employment in the current draft bill, or those proposed in the various submissions on the bill

Business is not opposed to universally recognised basic labour standards. In this regard, there is much in the proposed bill with which business agrees

Firstly, SA business agrees there should be a nonnegotiable floor of what are universally regarded as basic worker rights, for example, the right to protection against forced labour, child labour, victimisation, discrimination and the like

Secondly, business agrees that the law should set basic limits to working hours, regulate leave and rest periods and provide for sick and maternity benefits — always, however, with the proviso that the country does not get out of step with peer nations

Thirdly, business agrees that

the new act should extend basic protection to all classes of employment, particularly vulnerable sectors, and that the application of the act in respect of unorganised sectors be directed by a strong, independent and expert labour market commission, as proposed by the bill

Fourthly, business agrees that the act should be effectively monitored and enforced by a labour inspectorate and that the labour minister should be charged with ensuring implementation of the act in line with its objectives.

But business is vigorously opposed to those parts of the bill which depart from laying down basic conditions in favour of legislating best practise conditions

This undermines SA's capacity to compete and is prejudicial to government's drive for economic growth and employment creation. This approach will at best only temporarily advantage the few at the expense of the many

Of particular note is labour federation Cosatu's demand for a 40-hour week. This represents a goal which few rich industrialised countries have attained or even sought as a minimum standard and would certainly put the country at a severe competitive disadvantage relative to all other upper middle-income countries (see chart)

The proposed provision in the legislation to increase the premium for overtime worked from time-and-a-third to time-and-a-half will increase labour costs. The

argument that an increase in overtime rates will lead to employment growth is unsupported by evidence. Conversely, it will in fact diminish employment opportunities.

Thus it is particularly with regard to the distinction between basic and best labour standards

that an important concern arises for all classes of business in SA. The issue is what is appropriately left to collective bargaining between the parties directly affected and what is best regulated in law? The "mix" in the bill favours statutory regulation, which is current since the recent passing of the Labour Relations Act sets the clear policy objective of encouraging collective bargaining in preference to other forms of labour market regulation.

The legislation alone cannot secure the policy objective of labour market reform and a broader consensus has to be forged between the social partners on ways and means for securing a better life for all.

The price of getting reform of the labour market wrong is extremely high. The cost will be counted in declining per capita income and fewer formal sector jobs.

While the imposition of inappropriate standards will temporarily benefit some workers, it will be at great cost to society as a whole, particularly the unemployed, and the under-employed. Overall, labour market inequality will increase.

It is within the grasp of the concerned parties to secure economic growth objectives while simultaneously protecting labour standards. This would require that decisions about basic employment conditions be made within a broader economic context.

The labour minister has instruments at his disposal that will provide that context; for example, the proposed "jobs summit".

It is time that the debate about labour standards is widened and deepened to permit more options in the context of growing economic opportunities.

For its part, business is determined that SA's goals of employment creation and faster growth should not be frustrated by faulty compromises or coerced agreements around the terms of the bill.

It is inappropriate that SA should approve this year a Basic Conditions of Employment Bill in its present form that makes employment creation more costly and difficult, and jeopardises the achievement of fundamental macroeconomic and development objectives



Johannesburg Zoo yesterday by Haggie Rand Distribution's Danny Swart, centre. A jaguar, right, lays claim to his new toy

Pictures ROBERT BOTHA

Union, ANC deal hinges on trade-offs

Reneé Grawitzky

A DEAL, between the Congress of SA Trade Unions (Cosatu) and the African National Congress (ANC) on the Basic Conditions of Employment Bill could hinge on trade-offs on Sunday work and overtime pay against a 40-hour week and maternity leave.

Speculation was rife yesterday over possible areas of settlement as the parties remained tight-lipped ahead of an all-night meeting, set to continue today.

Sources close to the negotiations said proposals included a possible trade-off between reverting to time-and-a-third for overtime payment rates from the time-and-a-half proposed in the bill. This would be in return for some form of paid maternity leave and a broad commitment to a 40-hour week in a schedule to the bill, which may not stipulate a specific phased-in period.

The variation of standards would be a problem area for all parties. Meanwhile, the National African Feder-

ated Chamber of Commerce and Industry (Nafcoc) called for micro and small enterprises, which were mainly black, to be excluded from the scope of the bill. The chamber said separate legislation should apply to this section of business.

Nafcoc stressed that this was "a political as well as an economic imperative" and as there was no intention of maintaining the conditions, the legislation should be reviewed after five years.

Nafcoc proposed that small and micro business be exempt from the hours of work provision, overtime payment rates and the Sunday work provision. It supported the financing of four months' maternity leave from the Unemployment Insurance Fund.

A task team investigating methods of maternity leave payment has completed its work but awaits an actuarial report on cost implications.

The fund currently provides that women who have worked for three years are eligible for up to 45% of their salaries for six

BD 15/8/97

(166)

months. The provision excludes domestic workers and workers in informal sectors. It is uncertain whether the fund is capable of paying for the maternity deal.

A source close to the process said that if everyone contributed to the fund with no ceiling in place, this could be achieved.

National Economic, Development and Labour Council executive director Jayendra Nandoo said ultimately a deal depended on the exercising of political judgment and wisdom.

Business SA chairman Hans Smith said last night he was aware of different sets of proposals being flagged by different elements in business but, as yet, he was "unaware of deals being made". He said business awaited the outcome of the ANC/Cosatu meeting.

Parliamentary standing committee chairman on labour relations Godfrey Ojiphan said negotiations could not continue forever, and the sooner a deal was reached the better.

WORKING CONDITIONS

Nafcoc asks for exemptions for small firms ET(BE) 15/8/77 (166) (55)

The National African Federated Chamber of Commerce and Industry (Nafcoc) made an appeal to the government to allow small businesses to be excluded from the Basic Conditions of Employment Bill. "It is in the interest of the nation and also the economy and its growth that these businesses be strongly supported," the chamber said in a statement yesterday.

A separate set of laws should be established for small business. These laws should be reviewed after five years and the status of individual companies assessed, Nafcoc said. It also appealed to the government to allow Sunday to be treated as a normal day as this was in line with our new constitution, which has not identified this country as a Christian country. Nafcoc suggested that on the issue of night work, employers and employees be allowed to negotiate a flexible working agreement. — *Staff Reporter, Johannesburg*

Last-ditch labour bill talks

Reneé Grawitzky

BD 14/8/97 (166)

THE Congress of SA Trade Unions (Cosatu) and an African National Congress delegation led by Labour Minister Tito Mboweni meet tonight in a last-ditch attempt to find consensus on the Basic Conditions of Employment Bill, so that it can be tabled in Parliament this year.

However, it appeared Cosatu's mass action programme, starting with a strike in the Eastern Cape on Monday, would continue as it could prove too late for the action to be called off if consensus is reached.

Cosatu general secretary Sam Shilowa said the federation would go to the meeting with an open mind. "If the proposals are capable of breaking the deadlock, we will take them back to the organisation." A Cosatu special executive committee would be convened if this was the case, but such a meeting might be logistically impossible before the start of the action.

Mboweni said yesterday he was not influenced by whether the action went ahead or not but "governed by finding a deal".

Mboweni said the ANC would table "interesting possibilities" and, depending on the outcome, a meeting would be arranged with business at the weekend.

The ANC would table a package deal including trade-offs on working time, overtime rates, maternity leave, family responsibility leave, Sunday work and the variation of minimum standards. The trade-offs were in line with "what the situation demands of all of us", Mboweni said.

Mboweni stressed a deal had to include both labour and business and once a deal was finalised it would be submitted to the National Economic Development and Labour Council (Nedlac). At the same time the bill would enter the cabinet system so that cabinet could consider it on September 3.

He highlighted the dangers of deal-making not being conducted in trilateral meetings and said there was a danger that Nedlac could be undermined if parties continued to hold bilateral meetings. "Questions will be asked as to why we have Nedlac", he said. Those parties that wanted Nedlac could undermine it by their behaviour.

NE

EMPLOYMENT Mboweni confident of consensus between business and labour

Crucial deadline for draft bill

FRANK NXUMALO

Johannesburg — Tito Mboweni, the labour minister, said yesterday he was confident that consensus on the draft Basic Conditions of Employment Bill could be reached by tomorrow, the first of a series of deadlines needed to be met if the bill is to enter parliament on September 15.

He said the ANC intended tabling proposals to labour and business that contained "some exciting possibilities".

Mboweni said the ANC was scheduled to meet Cosatu, the union federation, tomorrow night and that a meeting with business was set up for Sunday. "But beyond that we are done with

meetings, we have done our duty to country and people."

Mboweni said the ANC was leading the deal-making initiative as "tripartite discussions between government, labour and business have been exhausted".

"There are very interesting possibilities in the ANC proposals on all the key issues, including working hours, overtime rate, Sunday work, maternity leave and the threshold for children's entrance into the labour market. That is why I am very upbeat about a consensus at Nedlac."

He said the results of all the various meetings on the bill would end up in the form of a Nedlac Executive Council Composite Report, on the basis of which "one

can chart a way forward"

However, the final decision on placing the bill before parliament was vested in the minister of labour.

On Cosatu's nationwide rolling mass action, scheduled to kick off on Monday, Mboweni said that was a decision within the federation's democratic rights.

Raymond Parsons, the Overall business convener at Nedlac, said business "is willing to continue the search for a broader consensus around the terms of the bill".

"This will require a willingness to explore options and advance debate in a manner which locates labour standards in the context of expanding economic opportunities."



UPBEAT Tito Mboweni, labour minister

ET (PAR) 14/8/97

(166)

Cosatu, ANC meeting (166) turns into a damp squib

ARG 16/8/97
THABO MABASO
BUSINESS REPORTER

The much-heralded meeting between the Congress of South African Trade Unions (Cosatu) and its alliance partner, the ANC, has turned into a damp squib.

Many had hoped the meeting would soften Cosatu's stance on the controversial Basic Conditions of Employment Draft Bill

Cosatu said in a statement that the meeting had produced no resolution to its demands for six months maternity leave and a 40-hour working week, among other demands.

The meeting between the two organisations started on Thursday evening and continued until the early hours of yesterday morning.

"Cosatu and the ANC agreed to take back to their respective organisations the positions and proposals made

"Further meetings are planned as soon as any of the parties have the proposals on the table or new ones aimed at resolving the current impasse," Cosatu secretary general Sam Shilowa said in the statement.

There were speculations earlier this week that the ANC was going to convince the powerful Cosatu to drop some of its demands

If Cosatu had agreed to do so the bill would have made the rush to make it to Parliament before September 15

Labour Minister Tito Mboweni has indicated that for the bill to make it to Parliament, labour and business organisations must reach consensus on its contents

Failure could mean the bill may have to be presented to the country's lawmakers next year.

In the statement Cosatu played down the speculations and urged its members to gear themselves for the federation's planned mass action, which starts with regional strikes on Monday

Still no end in sight to labour deadlock

(166) ST 17/8/97

CAROL PATON

AGREEMENT between the government, business and labour on the Basic Conditions of Employment Bill appeared as distant as ever this weekend, with Cosatu's failure to accept new proposals from the government, and a planned meeting between the government and business not materialising.

The Minister of Labour, Tito Mboweni, said this week that Friday August 15 was D-day for brokering a deal on the Bill.

However, an all-night meeting on Thursday between the ANC and Cosatu ended inconclusively, with Cosatu describing the government's proposals as unsatisfactory.

Zwelinzima Vavi, Cosatu assis-

tant general secretary, said "There were lots of possibilities, but none was capable of breaking the deadlock. Government still has to make the jump on working hours, and take small jumps on maternity leave and variation."

Cosatu is demanding a 40-hour working week within five years, six months of maternity leave, four of which should be paid, no ability by employers to vary or change basic conditions downwards, and a limit on child labour until the age of 16.

The ANC would not go public on what it offered the unions this week, but speculation is it has proposed a goal of a 40-hour week without a specific time limit, and has made changes to the variation model which limit employers' ability to vary conditions downwards.

It has also introduced a mech-

anism for paid maternity leave through the Unemployment Insurance Fund.

Cosatu was unwilling to settle this week, but it has agreed to discuss the proposals at a special executive meeting on Thursday, creating hope a deal can be struck.

However, business still shows no signs of lessening its opposition to key parts of the Bill, in particular the 40-hour week and Sunday work. It also strongly disagrees with any model that prevents the downward variation of basic standards through collective bargaining, exemptions or private agreement.

Meanwhile, the National African Federated Chamber of Commerce and Industry on Friday called for exemption from the Bill for small businesses, saying there should be a separate set of laws for them.

Thousands in (166) jobs bill demo

CT 22/8/97

JOHANNESBURG: Thousands of Congress of South Africa Trade Union members marched in Gauteng and North West Province yesterday and a significant stayaway seriously affected business

The marchers were calling for a revision of the Basic Conditions of Employment Bill

In Johannesburg about 12 000 demonstrators marched to the offices of Business SA and in Pretoria at least 10 000 marched to the Labour Department.

Six Gauteng mines reported total stayaways

There were no arrests, but police opened a docket against the march organiser for deviating from the agreed route — Sapa

Wetlands scheme (166) gets the green light

CT 22/8/97

THE subdivision of a 16ha site at Century City for a multi-purpose Blouvllei wetland system has been given the go-ahead by Minister of Planning for Western Cape Mr Lampie Fick

The wetland has been divided into two parts, one a nature reserve and the other a system of four cells which will provide a natural wetland system. Two cells will be open reed beds, one an open vlei and the other a marshland

Rare and endangered plants are being transplanted to the ephemeral pans and the reeds. Trees have been imported to re-establish the heronry.

Steve Enticott, manager technical services at Monex, developer of Century City, said he had commissioned environmental auditors to draw up an environmental management plan to ensure the success of the new wetland system

The wetlands would be open to the public once Century City had been completed. — Staff Writer

Too late for classification

Practical Stock Market Training

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Thousands join Cosatu march against bill

Bonile Ngyiyaza

THOUSANDS of workers supported a Congress of SA Trade Unions (Cosatu) march in Johannesburg yesterday as part of the federation's rolling mass action campaign to get certain clauses of the Basic Conditions of Employment Bill changed.

Between 8 000 and 12 000 workers marched, a figure far below the 70 000 projection given by the organisers to the police.

The SA Chamber of Business (Sacob) said the series of strikes which started on Monday, had cost the country millions of rands in lost production and wages.

It warned that the campaign could only lead to the hardening of

attitudes and said reports from the provinces indicated a mixed response to the stayaway — with worker participation ranging from none to 70%.

Marches also proceeded peacefully in nine Northern Province towns.

Sapa reports the largest turnout was in Pietersburg, where about 5 000 members turned out.

The mood of the marchers assembled at the Johannesburg Library Gardens was predominantly festive, with slogans being chanted to the memories of SA Communist Party leaders Chris Hanu and Joe Slovo, and Cosatu's Dorothy Makhosana.

Cosatu President John Gomo said no amount of litigation or

threats of court action would prevent workers from demanding their employment rights.

He said the present campaign would enter its second phase if union demands went unheeded.

He also warned that the Basic Conditions of Employment Bill as it stood, could be a strategy in some quarters to hit at the African National Congress in order to see it lose vast support in the 1999 election as it would not have delivered.

Cosatu demands the implementation of six months maternity leave, of which at least four months must be paid leave, and a threshold age of 16 years in the employment of children.

The federation is opposed to any

downward variation in wages and proposes that a 40-hour week be phased in over a period of not more than five years.

Business SA negotiator Adrian du Plessis said the issues raised in the memorandum were critical.

However, he warned that Cosatu's "deeply destructive" actions would result in incalculable costs both to the economy and in terms of the dispute between business and labour.

Responding to whether there would be a shift on the issues on business's side, Du Plessis said the issues on the table were difficult ones and the parties could not afford to make mistakes. "These must be seen in the context of SA's economic

performance.

Meanwhile police have opened a docket against the organiser of the march, because he allegedly broke the conditions of the march.

Johannesburg public order policing unit spokesman Supt Carrel van den Bergh said Cosatu Witwatersrand regional secretary Dan Mohapi broke the law in not sticking to the prearranged route and time of the march.

Several gold mines in the Gold Fields Group said they were affected by the stayaway, with only the Kloof and Leeudorn mines reporting they were operating normally.

Management at the mines said they anticipated operations would resume last night.

Labour softens stand on retrenchment assistance

John Dladla

60 22/8/97

THE labour element at the National Economic, Development and Labour Council (Nedlac), which is due to unveil fresh proposals on plans to help retrenched workers cope with the negative effects of industrial restructuring, will not call for legislation to force companies to finance such arrangements, labour sources say.

The labour constituency at Nedlac is due to make the new proposals after slow progress in the Nedlac process.

Mahloanela Skhosana, deputy general secretary of the National Council of Trade Unions (Nactu), says the federation will not be calling for legislation to protect retrenched workers. But he said government had to create a framework through which business and labour could jointly address the effects of industrial restructuring.

Previously, labour had called for legislation requiring companies to finance retrenchment plans.

The call provoked a defensive response from business, which saw the

suggestion as an attempt to raise employment costs.

Skhosana's views are echoed by another source who says the new proposals, currently being finalised, will emphasise "tripartism" in dealing with the jobs crisis.

"In the past, social plan act (the term labour uses for retrenchment plans) was portrayed as punitive against business," the source said, pointing out that firms would be assisted in finding alternatives to layoffs.

Skhosana says Nactu will call on business and government to train workers ahead of retrenchments. The state could offer incentives to business through tax-based instruments. "Workers must be given portable skills," he said.

Labour unions will assist in organising social plan programmes and the placement of retrenched workers in alternative jobs, Skhosana said.

Apart from the legislative function, the state's role was unclear in previous submissions from labour. The new proposals will clarify this, sources say.



Thousands of Congress of SA Trade Unions supporters marched to Business SA headquarters in central Johannesburg yesterday where they handed a memorandum to Business SA.

Picture: CATHY FINNICK

Debate over labour down to the basics

CP2418197

(166)



MBOWENI . . . Own agenda

No one can blame the government if it feels betrayed by its social partners, business and labour. For the second time this year, SA lost a workday through labour action in the bitter dispute over the draft Basic Conditions of Employment Bill and a settlement is nowhere in sight. **JAN DE LANGE** reports.



SHILOWA . . . Cosatu backing down

Bill will protect vulnerable workers

THE BASIC Conditions of Employment Bill strikes at the heart of labour relations. It sets a basic floor of employment standards, and includes workers from the agricultural sector, domestic workers and security guards, who don't enjoy protection under the present act.

However, setting these standards is a complex issue. The aim is to prevent extremes of exploitation and help workers who could be at the mercy of the employer.

Historically, it has been difficult to establish trade unions with bargaining power in these sectors, and it is generally accepted that labour standards are low.

A good example is the 1993 October Household Survey - which showed that 73 percent of the 1.3 million workers in agriculture earned less than R590 a month

able, complex to implement, and outdated. For example, prohibitions on Sunday work have not kept pace with the demands of globalisation and international competition.

But Business South Africa, an umbrella organisation representing the organised business sector, refuses to accept the bill on the grounds that it is too costly and will stifle job creation.

There is little doubt that the new bill will increase labour costs - but government argues that the causal link between strengthened minimum labour standards and the increased cost of labour can be avoided.

The Comprehensive Labour Market Commission report tabled in Parliament last June states "Improved overtime rates may accelerate the introduction of multiple shifts and lead to an increase in employment."

"Extending minimum standards to part-time workers may encourage existing full-time

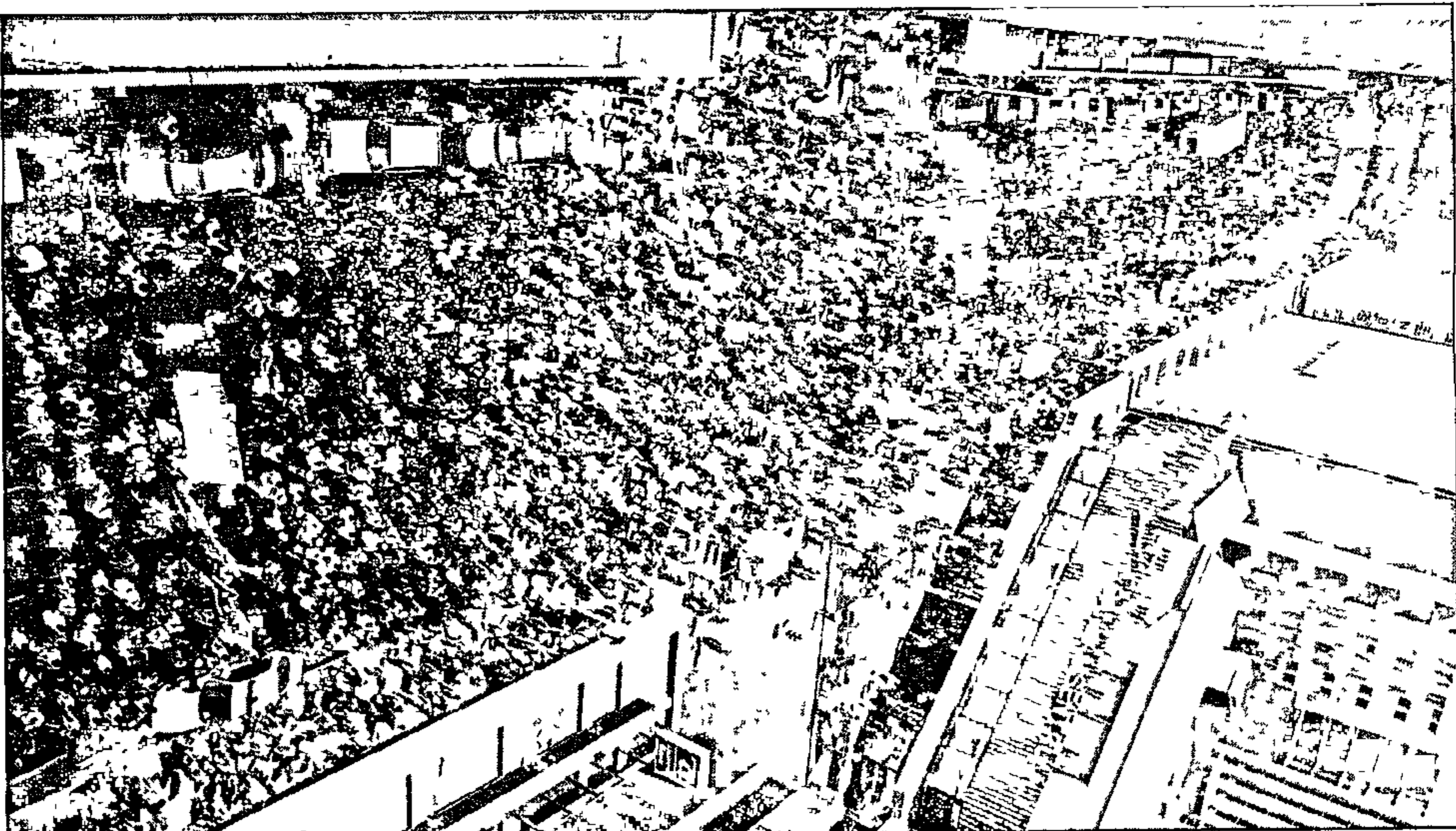
up part-time employment"

It continues "There are numerous examples where strengthened minimum standards are both job-creating and productivity-enhancing. By choosing not to work overtime, employed workers can help create new job opportunities in factories where the number of shifts can and does rise as a result."

The new bill extends minimum standards to part-time workers - an aspect that has gone almost unnoticed in the face of the controversy over other sections of the draft. The pros and cons deserve to be better debated.

Government also hopes the new bill will lead to increased productivity through flexible regulation of working hours.

The bill reduces the working week from 46 to 45 hours. It also provides a simpler basis for calculating hours - thus achieving greater flexibility. Working hours can be averaged



Thousands of people marched through the Pretoria CBD

~~4/9~~
**Cosatu digs in
over labour Bill**

M+G 29/8 - 4/9/97 (166)

Sechaba ka'Nkosi

Leaders of the Congress of South African Trade Unions (Cosatu) rejected last-minute compromises by the government to meet some of its demands on the Basic Conditions of Employment Bill and pave the way for possible consensus before the end of this parliamentary session.

Proposals tabled by the African National Congress in an alliance meeting last week suggested that the government meet Cosatu's main demand on variations, and give labour a statutory guarantee that rights already won through collective agreements would not be compromised. Cosatu was expected to give up its demand on overtime payment.

The ANC is understood to have reiterated its support for the government's preference of a 45-hour working week as stated in the Bill, and that payment for maternity leave would be best resolved by a committee appointed when the Bill is launched in April. The ANC is said to have been satisfied that there were also not that many differences between the two partners on the minimum working age and Sunday work. The point of conflict is variations and overtime pay, and the new proposals aimed to strike a balance, by agreeing to deliver minimum standards to Cosatu, while trying to ensure that organised business does not suffer higher costs as a result.

Neither Cosatu, the Ministry of Labour nor the ANC agreed to talk about the proposals in detail. However, Cosatu confirmed that new proposals were tabled at the alliance meeting, and further meetings are taking place to ensure broad consensus is reached on the Bill.

Insiders say the latest proposals enjoy the backing of senior government officials, including Deputy President Thabo Mbeki. They say Cosatu's refusal to accept renewed positions stems mainly from increasing differences between its general secretary Sam Shilowa and Labour Minister Tito Mboweni, and the fact that Cosatu is holding its national congress next month. Says one source: "Cosatu leaders cannot be seen to be compromising before the congress, it might cost them their positions. Perhaps the Bill will only be resolved then or after the congress. But Cosatu will not be able to get a deal better than the one they rejected. The government has gone far enough to accommodate them. The ball is now firmly in their court."

The first step, according to the source, is for the ANC to get Cosatu's support for the trade-offs. And if it does buy the idea, the proposal would then have been taken to the National Economic Development and Labour Council (Nedlac). Nedlac's executive director Jayendra Naidoo says there is still no end in sight on the dispute.

Business Times

Side-stepping and ducking employers under fire

Cosatu consultant KENNETH CREAMER hits out at employers seeking to avoid new labour regulations by changing the status of their workers

ST(BT) 24/8/97 (166)

JOB seekers, as well as those already in jobs, should be on the lookout for two new moves that are growing in popularity among employers the "side-step" and the "bended knee"

The side-step involves redefining employees as "independent contractors" in an attempt to place them out of the reach of labour legislation such as the Labour Relations Act (LRA) and Basic Conditions of Employment Bill

Business Times reported last month that according to figures released by Hein van der Walt of the Confederation of Employers of SA — a leading proponent of this dubious side-stepping jig — more than 150 000 employees at over 3 000 companies have already had the misfortune of being "redefined"

The bended knee involves employer organisations pleading with government for increased labour market flexibility and efforts by individual employers to gain exemption from basic labour standards

Their argument is that companies are experiencing financial difficulties as they find labour laws too onerous

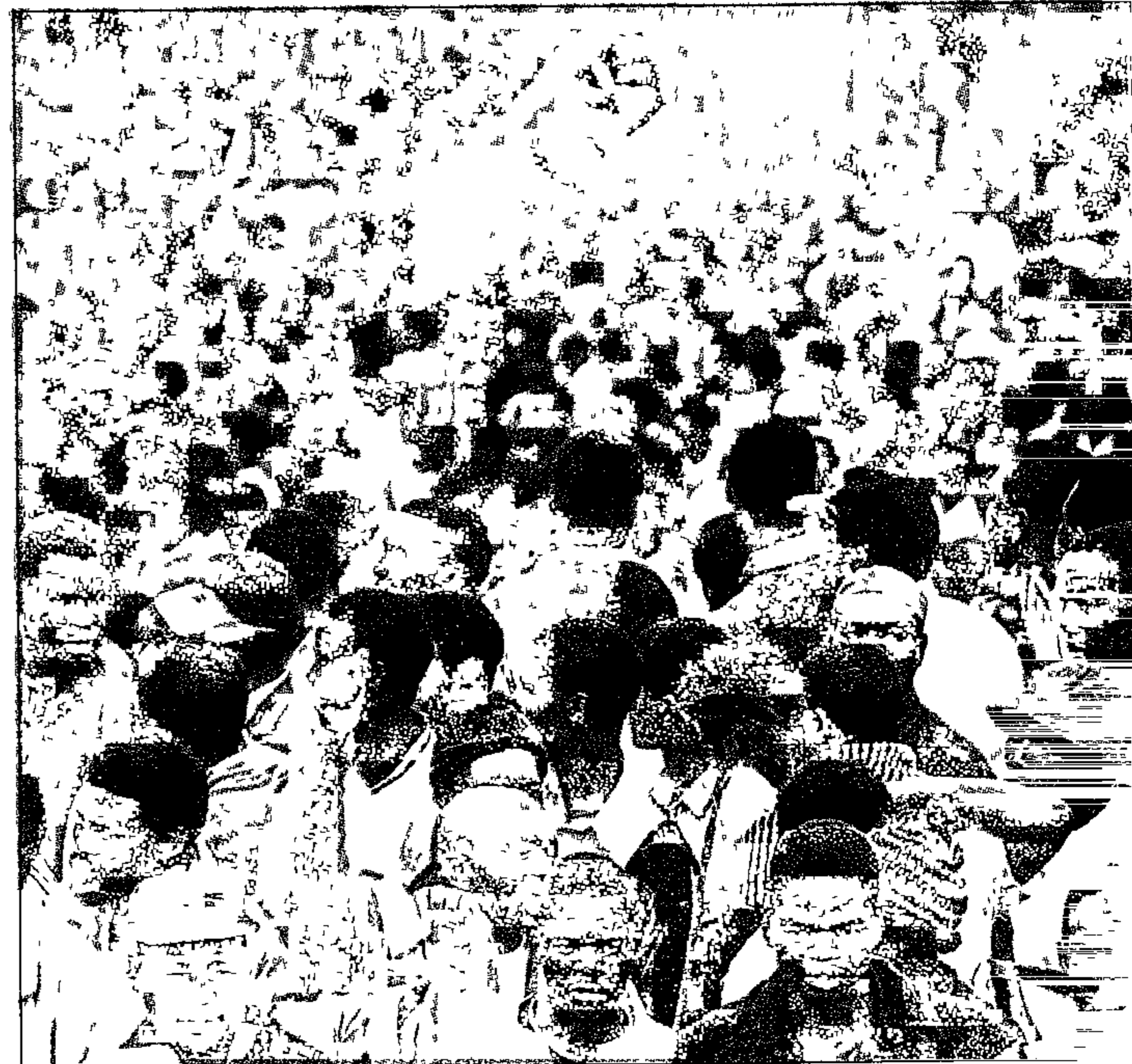
Those who attempt to classify their employees as inde-

pendent contractors are likely to find that in addition to making them legally vulnerable, the suggestion is ultimately counter-productive

Even though independent contractors are excluded from the definition of employment in both the LRA and the Basic Conditions of Employment Bill, this exclusion applies only to bona fide independent contractors like plumbers or electricians, or entrepreneurs who establish a business which performs a service to the general public

Legal opinion is unequivocal that in deciding whether someone is an employee or an independent contractor, "substance must take precedence over form"

Employers are not permitted to circumvent their statutory obligations by simply labelling employees independent contractors. This position was reaffirmed in April this year by Labour Court Judge Ray Zondo in a case between Free State district surgeons and the health authorities. The court made use of a "dominant impression test" to show it was correct to include part-time surgeons under the LRA's definition of employees and that they were entitled to



WORKERS' RIGHTS .. Cosatu members on the march during a strike last year

all of the law's protections

In terms of the court's test, an employee is distinguishable from an independent contractor in that he or she

Offers a personal service to the employer and does not just perform a specified task,

Offers a service which the employer may or may not use but for which payment is made,

Works until the period of the contract expires and not until specific work is done,

Is at the beck and call of the employer, and

Is subordinate to the employer and is required to obey lawful instructions

The law's definition of an "employee" is relevant both to the application of the LRA and the Basic Conditions of Employment Bill. Indeed, the Bill would allow the minister to extend the application of mini-

mum conditions to persons not defined as employees

Employers who try to side-step the law are likely to be taken to court by disgruntled staff members and they will step into the very cauldron of labour unrest which the laws that they are trying to avoid were designed to prevent

Employers who are approaching government on bended knee wish either to be exempted from the law, or for it to include mechanisms that will allow for a lowering of basic conditions by agreement with employees

The draft Basic Conditions of Employment Bill provides for the downward variation of basic conditions through the granting of ministerial exemptions and, in certain circumstances, by agreement

The exemptions mechanism will ensure a degree of flexibil-

ity in the application of basic labour standards. It is important, though, that this flexibility is properly regulated. In order to avoid abuse of the system, the Act should only allow the minister to grant a firm an exemption where it can show that an exemption is needed for economic survival. Such exemptions should only be temporary. Unions must be notified of any exemption application and should have the right to make representation on the matter.

If employers are successful in their attempts to win the right to downward variation by agreement, it seems inevitable that employees should prepare themselves for a sharp kick in the teeth

● Creamer is writing in his private capacity and the views expressed are not necessarily those of Cosatu's

Control in workplace key to change

THE Congress of SA Trade Unions (Cosatu) would have to engage in discussions on workplace restructuring and productivity if it was to shape and improve the working life of workers and contribute to economic delivery, said the federation's September Commission.

The commission recommended Cosatu should pursue an option of "social unionism" which combined broader social and political concerns with immediate worker issues. This required engagement and participation in "political and social alliances" such as the National Economic, Development and Labour Council (Nedlac).

The commission therefore called on Cosatu to reject "militant abstention" by members on issues of production and restructuring in favour of a policy of "strategic engagement".

This policy had the potential to prevent unilateral restructuring

and ensure worker gains

However, participation could be ineffective and lead to unions being co-opted, losing direction or causing worker divisions. "This is especially true if the union fails to develop its own proactive agenda for engagement."

In the majority of cases, the commission noted, unions had not taken advantage of the opportunities presented by company restructuring, such as new forums for consultation and participation. Unions lacked a clear vision and policies on what to do with their new influence and lacked the capacity to use the forums effectively, the commission said.

Unions were not able to contest restructuring effectively because of a lack of policy direction; shop stewards in individual companies had developed their own initiatives and union officials avoided engagement, while unions lacked capacity to engage effectively and

support shop stewards, the commission found.

In line with the vision of "social unionism", Cosatu unions would have to ensure an increase in worker control of production and decision-making at all levels, improve working conditions and skills and assist in job creation.

The report focused on the need for unions to discuss performance-related pay or bonus schemes. Unions had to win from employers the right to negotiate such schemes so workers could share in the benefits of improved production and shape such agreement to foster worker solidarity.

The report dealt with the appointment of union representatives to company boards, workplace forums and autonomous, union-guided work teams.

Commissioners did caution this could ensure the survival of capitalism. The challenge was "transformation from within".

(166) (1/10/97) BD 26/9/97

Township bus services disrupted

ET 20/8/97
BUS services to and from Khayelitsha and Nyanga will be disrupted today as Golden Arrow staff will take part in a day-long strike called by Cosatu

The service will come to a standstill from 10am, but other services will operate normally with minor changes

Company general manager Mr Hannes Grebe said yesterday other services would operate as usual with only minor changes due to the support of the majority union, the Transport and Omnibus Workers' Union

Commuters travelling to and from Khayelitsha and Nyanga should contact the company at the toll-free number 080-121-2111 or

934-0540 for the latest information. The company apologised for the inconvenience to passengers and businesses

Today's Cosatu strike in the Western Cape forms part of nationwide protests in support of its demands for changes to the Basic Conditions of Employment Bill.

Meanwhile, in Durban a one-day work stoppage yesterday called by Cosatu in KwaZulu-Natal was judged to be an "unqualified success" by the federation, with the majority of Cosatu's 280 000 members staying at home

Damage estimated at millions of rands as a result of lost production was inflicted on the region's economy. Education was also dis-

rupted, with 20 000 members of the South African Democratic Teachers' Union staying away.

A spokesman for the Durban Chamber of Commerce and Industry, Mr John Bryce, said there had been a 60% stayaway in the Durban Metro region.

Cosatu regional secretary Mr Paulos Ngcobo said the federation did not want to take to the streets every day. However, organised business was causing the problem

Thousands of people took part in a peaceful protest to the Durban City Hall. There were also marches in Maritzburg, Newcastle, Empangeni, Isithebe, Port Shepstone, Matatiele and Ladysmith — Sapa, Own Correspondent

'Injuries' bill under attack

BD 26/8/97 (131) (166)

Jacob Dlamini

CAPE TOWN — A new bill on compensation for occupational injuries contained provisions which could threaten the survival of mutual associations, Rand Mutual Assurance managing director Gene Fivaz said yesterday.

Fivaz told the parliamentary labour committee that the Compensation for Occupational Injuries and Diseases Amendment Bill would negatively affect the functioning of mutual associations if it became law.

The bill, designed to bring old legislation into line with the 1996 Unemployment Insurance Act, contains provisions which would give the labour minister powers to grant a mutual association a li-

cence to operate, but subject to a yearly review.

Fivaz said the yearly review would inhibit financial growth and prevent sound financial planning. The provision would also negatively affect Rand Mutual Assurance's asset base, estimated at R3bn, Fivaz said.

He called on the licence to be given over an indefinite period, saying this would assist the company in its planning.

The bill also came under attack from the Federated Employers' Mutual Assurance company. GM Cliff Saville said it would be unreasonable to restrict the company's service to an annual licence.

Business SA spokesman Bokkie Botha told the committee there was no "parity of represen-

tation" for employers and employees on the compensation board.

In terms of the bill, the board would have five worker representatives and three for employers, while mutual associations would have their own two representatives, Botha said.

This was erroneous as mutual associations were independent organisations which could not be regarded as being on the side of employers, he said.

Botha also criticised the 12-month licence proposed by the bill, saying it would be unreasonable to expect a company with assets worth a total of up to R3bn to operate on a licence valid for a year. Botha therefore called for the associations to be given indefinite licences.

Soldiers 'killed thousands of Nigerians'

Nomavenda Mathiane

MORE than 3 000 Nigerians had been killed by soldiers in Ogoniland in Nigeria since the Commonwealth Organisation suspended the Nigerian membership in 1995, visiting Movement for the Survival of Ogoni People president Ledum Mitee said yesterday.

Mitee is on a four-day visit to SA to lobby for the expulsion of Nigeria from the Commonwealth. Mitee said the situation in Nigeria had deteriorated, particularly in Ogoniland where villagers feared seeking medical attention at hospitals for fear of abduction by soldiers who were now permanently deployed in the area. He said more than 30 000 Nigerians had been displaced while some had sought asylum in neighbouring countries.

Mitee, who is exiled from Nigeria and lives in London, said he had held talks with Deputy Foreign Affairs Minister Aziz Pahad, top-ranking African National Congress members and a number of influential South Africans. He said South Africans had a moral obligation to call for the expulsion of Nigeria from the Commonwealth, and the call should be accompanied by other punitive measures such as sanctions against Nigeria.

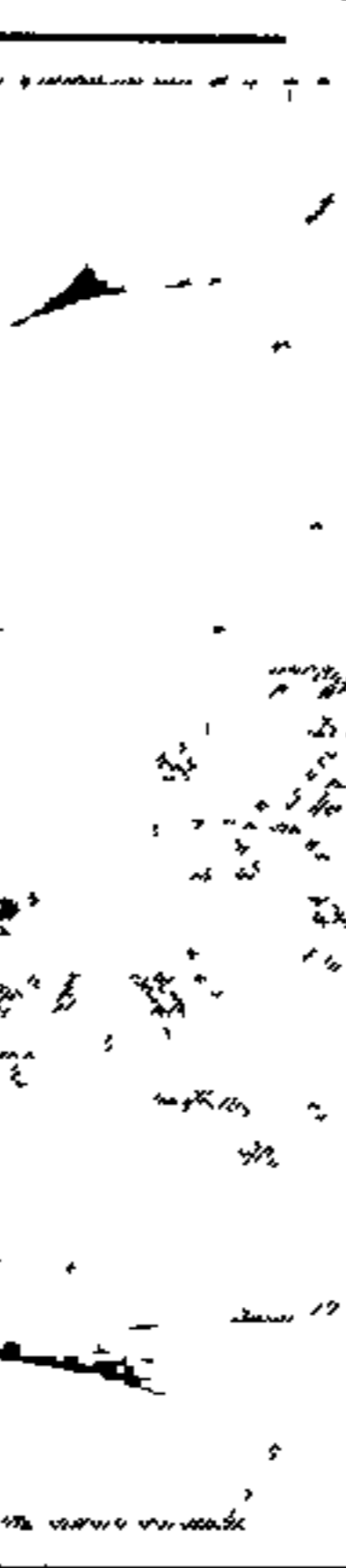


CAPE TOWN — There was a need for effectively enforced legislation to provide for the compensation of workers injured in the course of their employment, Congress of SA Trade Unions spokesman Kenneth Creamer said yesterday.

In a submission to Parliament's labour committee during hearings on the Occupational Injuries and Diseases Amendment Bill, Creamer said compensation laws should be in line with the principle of redressing historical imbalances. Workers faced health and safety problems which needed the serious attention of Parliament.

Present law on compensation suffered from three weaknesses: lack of a remedy for historically excluded black workers; discrimination against low-wage earners and the failure to cover domestic workers. He called for a special amendment to allow workers who suffered permanent disability in excess of 30% before 1977 to be given compensation. Creamer also called for the bill to be amended to allow for scaling up benefits for low-paid workers and for coverage to be extended to domestics. There were fundamental policy shifts which needed to be made to give the bulk of workers access to compensation.

Call for enforced law on compensation



Movement for the survival of the Ogoni People president Ledum Mitee at yesterday's press conference. Mitee is on a four-day visit to SA to lobby for the expulsion of the Nigerian government from the Commonwealth Heads of State. Picture COBUS BODENSTEIN

Business, ANC clash over compensation bill

DONWALD PRESSLY
ARGENTINE CORRESPONDENT

Cape Town - Representatives of business and the mutual assurance industry have clashed with the African National Congress over the composition of a council which makes recommendations for workers injured on duty.

Business South Africa, represented by Bokkie Botha, said that the Compensation for Occupational Injuries and Diseases Amendment Bill being considered by the National Assembly labour portfolio committee under-represented employers on the compensation council.

In terms of the bill, only three

employers sit on the board, while workers would be represented by five people drawn from the building and mining industries.

ANC MPs, including former trade unionist Philip Dexter, said however, that workers should have a "veto" right of at least 50% on the council to protect their interests.

He pointed out that workers did not see the representative companies as necessarily being on their side of the camp.

During deliberations of the portfolio committee on the bill, the Rand Mutual Assurance Company (RMAC) which handles claims for compensation for workers in the mining industry - was also questioned on the racial composition of its board.

ARG 28/8/97
In reply to Mr Dexter's probing, RMAC managing director Gene Fivaz acknowledged that due to historical reasons his board was rather pale and male.

However, the company was doing its bit in redressing inequalities through training programmes, but was not in the business of tokenism.

He said the National Union of Mineworkers, the Mine Workers' Union and the Surface Officials Workers' Association were represented on the 13-member board.

Mr Fivaz said there had not been complaints from the unions about the board's make-up, which also included six employer representatives (of mining companies), one Chamber of Mines representative and three staff representatives.

He pointed out that the shareholders were the policyholders in his company and they would have to determine such policy.

Both RMCA and the Federated Employers' Mutual Assurance Company - which provides benefits to employees in the building industry - presented argument that the bill should not provide the Labour Minister with the right only to give trading licences to the assurance companies for one year at a time.

Mr Fivaz said that his company would prefer a system where the licence could be removed under specific conditions but was granted indefinitely.

This would help remove the uncertainty attached to the industry, Mr Fivaz said.

saying that the ANC is not doing the best it can for the people of this country [Interjections]

What we are asking for is that the Ministry set up a fund that will care for those ex-miners who are not being catered for [Interjections] The co-operatives that the Deputy Minister is talking about are for workers who can work, and therefore have the money to buy things We want to know what will happen to those workers who have given of their prime, but who cannot work any more and are being sent back to their homes to sit and do nothing That is what I would like to know

The Deputy Minister's defence of the mining industry is very laudable But what about the defence of the poor miners who have worked so hard in this country? [Interjections] That is what I would like to know What about the families of those people who are disabled? [Interjections] What about the families of those people who were injured after having worked so hard all this time and who do not get any pension? The Deputy Minister says that they get a pension, but they do not

Let us give them R2 000 to take home [Interjections] Are they getting a payout? Do their families receive therapy? Do their children receive therapy when their loved ones die? That is what I would like to know [Interjections]

The total earnings for the mining industry in 1996 in South Africa was more than R66 billion Of that R66 billion how much through the Chamber of Mines is the Ministry prepared to accept so as to set up this fund? That is what we want to know We are asking the Ministry to take care of the people of this land who have worked in the most prosperous industry That is what we want

Mr Z I NCINANE Where were you?

Dr K RAJOO I want to tell the Deputy Minister

The DEPUTY SPEAKER Order!

Dr K RAJOO I want to tell the Deputy Minister that in 1996 7 426 people were injured in the mines In 1997, this year, to date 8 591 people have been injured [Interjections] What will happen to these people? [Interjections] [Time expired]

The DEPUTY MINISTER OF MINERALS AND ENERGY Madam Speaker, I want to point

out to Dr Rajoo that as a department we do not intend setting up any extra fund which is going to take care of that particular issue I have pointed out to Dr Rajoo that the Occupational Diseases in Mines and Works Amendment Act of 1993 takes care of all those kinds of issues Therefore, as a Ministry, we recognise the plight of the workers who have been injured at work

We believe that through the existing structures and the Act which have been formulated to take care of such issues, and to try to improve the lives of those people, we are addressing that problem We do not see any need to set up or administer an extra fund, or create an extra structure to which employers are going to contribute in order to pay such miners

We believe that the current structures and Acts are sufficient to take care of the current situation Through the Occupational Health and Safety Act and the engagement of the tripartite structures, we will be able to address this issue

I also want to point out that the pension funds and provident funds which employers and employees are currently negotiating do take cognisance of such issues so as to make sure that workers who are injured are taken care of in terms of the benefits provided for in those particular funds

Debate concluded

Legislation on basic conditions of employment

4 Mr P J GROENEWALD asked the Minister of Labour *

(1) Whether he intends introducing legislation on basic conditions of employment, if not, why not, if so, when,

(2) whether he will make a statement on the matter? N2251E INT

The MINISTER OF LABOUR Madam Speaker, the answer to the question is yes, I do intend introducing legislation on basic conditions of employment to Parliament before the end of this year

Secondly, yes, I made a statement regarding the matter on 14 September 1997, and I have nothing further to add

*Mr P J GROENEWALD Madam Speaker, the hon the Minister now finds himself in the

proverbial position where it does not matter what he does, it will be the wrong thing Why am I saying this? I am saying this because the hon the Minister has painted himself into a corner When he realised that he was painted into a corner, he became the proverbial cat on a hot tin roof

The hon the Minister is pointing out to me that his interpreting device is not functioning properly He will have to read the Hansard, because my time is running out, unless the Speaker gives me extra time

The hon the Minister replied clearly to the question that was put to him by saying that he was in fact going to introduce legislation, the Basic Conditions of Employment Bill, and that he was going to do so before the end of this year The other question, however, is whether the hon the Minister is going to introduce this legislation with or without consensus being reached at Nedlac

Ms C E GILLWALD Madam Speaker, on a point of order The Minister has indicated that his interpreting device is not working, and has asked the speaker to stop until it is working He is ignoring his request

An HON MEMBER Nothing is working!

The DEPUTY SPEAKER Order! I believe it is now working Please continue, hon member

*Mr P J GROENEWALD Madam Speaker, I want to tell that hon member that it is not for me to make the rulings in this House If the hon the Minister has a request, he should direct it to the Chair and the Chair should make a ruling, unless the hon member wishes to raise my status and allow me to make the rulings in the House The hon member should at least acquaint herself with what is going on [Interjections] May I ask the hon the Minister whether he is ready? Can he hear what I am saying now? Is the interpreting device working?

Is the hon the Minister's interpreting device working now? [Interjections]

*The hon the Minister says that it is working

I come back to my previous point The question is whether the hon the Minister is going to introduce this legislation with or without consensus being

reached at Nedlac, because that is where the problem with this Basic Conditions of Employment Bill is

The hon the Minister said at one stage that consensus should first be reached at Nedlac The question is whether consensus was reached or not When one looks at the reports in the press, one sees one day that consensus was reached at Nedlac The very next day one reads that consensus was not reached I do not just want to say to the Minister that his information is incorrect and that he does not always know whether consensus has been reached or not I understand Owing to the role-players in Nedlac who represent the Government and others who represent the trade unions and business, it is not always easy to reach consensus

The other reality is that if the hon the Minister has in fact reached consensus at Nedlac and he brings the legislation to Parliament, Parliament follows a certain procedure [Time expired]

Mr A J LEON Madam Speaker, there seems to be a problem also with the plan ordinary English of the hon the Minister's words. He announced to the whole world in yesterday's press that sufficient consensus had been reached between labour and business on the Basic Conditions of Employment Bill

This morning the following appeared in the media, per word of Mr John Gomo, the president of Cosatu He says

I do not know who informs the President of South Africa It certainly was not us There is no consensus

Business advises that at least on five major issues separate from the issues on which Cosatu does not agree, there is no consensus

The Minister announces - it was reported yesterday - that sufficient consensus has been reached between labour, Government and business on the content of this Bill Could the hon the Minister please tell us which statement on whether or not sufficient consensus exists is correct The statement of business, the statement of Cosatu or his own statement to the media? That is point number one

The second issue is that the hon the Minister advises us that this Bill will be proceeded with, come hell or high water presumably if there is no consensus. So much for the social partnership which he has made the centrepiece of his Ministry, stating that there has to be a social partnership. I would not be as crazy about the social partnership, but certainly the Labour Relations Act only went through because of the social partnership. Is that now going to be destroyed? I think we should be informed.

The third condition is that the Bill, as it now stands, is not the Basic Conditions of Employment Bill at all. It is the Best Conditions of Employment Bill. There is no comparable country in the world, at South Africa's stage of development, which has in place these kinds of protections and devices as a minimum floor of conditions. I am not saying that they should not exist where they are negotiated. I am saying that no country, not Brazil, not Chile, not any comparable country [Interjections] So what! [Interjections] That Deputy Minister is meant to be at the forefront of getting investment into this country [Interjections] He is harming investment and job creation, and he should explain to the House [Time expired]

The MINISTER OF LABOUR Madam Speaker, the initial short reply that I gave was intentional, so that the interpellant should put exactly the question he wanted to ask. Now that he has posed the question properly, I will answer it. The processes in the National Economic, Development and Labour Council related to the negotiations on the Basic Conditions of Employment Bill, have not been completed. The parties in Nedlac deadlocked on most of the critical issues, as a result of which we could not conclude any agreement.

I then set in motion a process involving bilateral meetings with the Ministry of Labour, Business South Africa Natfoc the trade union movement, the Cosatu Fedusa and Nactu to assist in the process of resolving the key issues at hand. These processes went on during the months of July and August.

At the end of that process I reached the conclusion that sufficient consensus existed for us to bring the Bill to Parliament. The judgment of what constitutes sufficient consensus is my judgment. It is not BSAs judgment, it is nobody's

judgment but mine. And, together with the Cabinet, we reached the conclusion that sufficient consensus exists.

Having done that, we are now in a position to submit the Bill to the parliamentary process. That brings me to the hon Mr Leon. The Bill will be submitted to Parliament [Time expired]

*Mr P J GROENEWALD Madam Speaker, at the outset I would at least like to say to the hon the Minister, with reference to his statement that the question was simple, that in Afrikaans we have an expression which goes "n Goenie begrupp het 'n halwe woord nodig", which means "A few words to the wise suffice."

The hon the Minister is saying that he will make the decision. It is a good thing for the Minister to take a strong stand and to say that he will make the decision. The question is, and with this I concluded my previous turn to speak, which process is going to be followed after that?

If consensus is in fact reached at Nedlac, will the parliamentary process take its course, will it be going to the Portfolio Committee on Labour as it should, and also will? Will the legislation then, while Cosatu has its representatives in this highest Chamber in the country, and there are enough of them here, be amended or will there be new additions?

Is the Minister going to refer it back to Nedlac to consider the amendments? Or does the strong standpoint of the Minister in saying here that he will make the decision mean precisely that he wants consensus to be reached at Nedlac, knowing full well that the legislation can be amended if it goes through the parliamentary process, and that in the end it is Parliament that decides about this, with the supporters of Cosatu who are represented here in this Chamber to include what they in fact always wanted to be incorporated?

This is very important legislation. A previous speaker made reference to it and said that it contained the best conditions of employment that exist. Labour has a fundamental influence on the economy of South Africa. The labour force eventually determines South Africa's economy. If we want a healthy economy in this country, then we should, as far as labour is concerned, play less and

work harder. Then we will be able to build and establish a better economy.

The MINISTER OF LABOUR Madam Speaker, there will be ample opportunity to debate the contents of the Bill when it is put before the committee and also when it is put before the House. I therefore do not want to respond the way a Spanish bull would to having a red flag waved before it, because I have no intention of playing that game.

The critical issues here are that the Bill is being brought to Parliament, that it will be considered by Parliament, and that the parliamentary committee together with the House will have ample time to debate it. Hon members' views on the matter will have to be expressed at that time. We obviously have different viewpoints to those of the hon Leon about what constitutes basic conditions of employment and about what constitutes best conditions of employment. He is free to expound on those views during the parliamentary process. Nobody is going to stop him from doing so.

The process which involves business and labour in Nedlac and the bilateral meetings is now finished. The issues will have to be dealt with when the Bill is before Parliament. I have nothing further to add. Debate concluded.

QUESTIONS

Indicates translated version

For oral reply

President of the Republic

The DEPUTY SPEAKER Order! Is there an hon Minister who will take the question addressed to the President of the Republic? The question will stand over.

Mr K M ANDREW Madam Speaker, I object to the question standing over. I would like it to be answered please. [Interjection]

The MINISTER FOR PROVINCIAL AFFAIRS AND CONSTITUTIONAL DEVELOPMENT Madam Speaker the chairperson of my committee, had me engaged in very serious matters of Parliament [Laughter] I take it that we are dealing

with Question 1 on the Question Paper? [Laughter]

The DEPUTY SPEAKER Order! It is Question 1 which is addressed to the President.

Moving of Parliament formal/informal procedures

*1 Mr K M ANDREW asked the President of the Republic

(1) With reference to the current debate concerning the possibility of moving Parliament from Cape Town to Gauteng or the Government's administration from Pretoria to Cape Town on a permanent basis, what formal and informal procedures are to be followed in making this decision.

(2) whether a referendum will be held on this matter, if not, why not, if so, what steps is he taking to ensure that such a referendum is held? N2072E

The MINISTER FOR PROVINCIAL AFFAIRS AND CONSTITUTIONAL DEVELOPMENT (for the President of the Republic)

(1) The decision about the location of Parliament rests with Parliament. Section 42(6) of the Constitution of the Republic of South Africa, 1996, confirms Cape Town as the current seat of Parliament, and prescribes the procedure to be followed if a new determination were to be made. This includes the attainment of a majority in both Houses of Parliament. It is to be expected that if the matter were to come before Parliament, various parties would undertake internal consultations to determine their own approaches. Parliament may itself set out informal or additional procedures to be followed, in addition to those prescribed by the Constitution, so as to guide it in taking its decision. The President prefers that the referendum be held and that the decision be taken in that regard.

(2) The question of a referendum to decide this issue, has not yet been fully decided. Mr K M ANDREW Madam Speaker arising out of the hon the Minister's reply on behalf of the

the average length of time between the receipt of a complaint by the Commission and completion of the investigation of complaints, as a result of the varying nature of complaints received and the varying nature of investigations or action taken in respect of respective complaints. However, on average, investigation of a complaint is completed within five months.

Remark

According to the Chief Executive Officer of the Human Rights Commission, the complaints handling function of the Commission should be assessed against the following background

* There are only two professional staff members in Johannesburg and one professional staff member in Cape Town to handle the case load

* Sponsorship for the installation of appropriate information technology systems, including a complaints handling system, has recently been approved. The installation should be completed in the next three months. In the absence of adequate systems and human resources, the handling of complaints and the furnishing of statistics, amongst others, are extremely onerous tasks

QUESTIONS

† Indicates translated version

For written reply

Draft labour equality bill

992 Mr C M GEORGE asked the Minister of Labour †

Whether a commission or committee has been appointed with the instruction to draw up a draft labour equality bill, if so, what are the (a) names and (b) qualifications of the members of this commission or committee? N1699E

The MINISTER OF LABOUR

On 11 March 1997, the State Attorney's Office, at the Department of Labour's request appointed three lawyers to serve on the Drafting Team for the Employment Equity Bill. He appointed them on the instructions of the Department of Labour. The three lawyers are

- 1 Ms Amanda Armstrong of the law firm Cheadle, Thompson & Haysom
- 2 Ms Urmula Bhoola also of the law firm Cheadle, Thompson & Haysom,
- 3 Mr Sipho Madhlopa of the law firm Madhlopa Attorneys

All are qualified attorneys at law. They have worked with Messrs Mzi Yawa, Loyiso Mbabane and Jeremy Baskin from the Department in drafting the Bill

Department: cellular telephone bills

1032 Mr A J LEON asked the Minister of Labour

(a) What was the cellular telephone bill of each employee of his Department in possession of an official cellular phone in each month during the latest specified 12-month period for which information is available and (b) what controls are in place to prevent the abuse of such cellular phones? N1743E

The MINISTER OF LABOUR

(a) See attached schedule

(b) A policy on the utilisation of cellular telephones has been adopted according to which a monthly financial limit is placed on the usage of cellular telephones. The current financial limit on expenditure on all calls is R200 per month per official cellular telephone. In the event where the financial limit is exceeded, the user will be required to identify and pay for all private calls made. If no response is received from the user within 30 days after receipt of a copy of the account the amount exceeding the financial limit will be deducted from the user's salary. No calls on cellular phones to foreign countries are allowed.

(a)

Cell phone	Jul 96	Aug 96	Sep 96	Oct 96	Nov 96	Dec 96	Jan 97	Feb 97	Mar 97	Apr 97	May 97	Jun 97
1	547.69	164.94	1 004.98	164.94	164.94	164.94	164.94	222.57	193.21	266.30	636.70	992.99
2	488.36	895.50	406.62	636.80	407.72	412.57	727.14	431.76	451.64	729.83	836.26	360.42
3	-	-	559.61	353.04	344.61	340.79	537.82	331.04	329.90	232.28	593.08	550.85
4	518.57	1 029.71	988.33	1 029.71	960.37	468.70	505.35	574.42	404.63	367.41	838.53	442.02
5	265.27	241.21	228.39	234.99	200.05	195.55	228.73	185.64	229.41	206.11	482.23	239.35
6	296.89	452.73	733.85	588.79	571.11	558.30	397.78	317.37	656.34	699.57	1 042.98	559.29
7	-	-	-	-	-	-	109.05	336.25	297.54	316.69	408.00	273.38
8	274.10	693.75	343.37	377.17	498.75	225.90	183.14	-	-	-	-	-
9	1 024.52	1 357.27	1 684.05	1 777.30	883.54	391.92	695.32	351.16	533.39	672.49	265.23	239.23
10	153.90	384.43	816.90	678.44	656.58	569.73	820.14	797.04	729.80	932.79	821.85	832.31
11	712.60	1 271.43	1 266.31	1 144.30	729.46	676.79	1 006.44	710.10	932.79	995.46	671.72	993.28
12	-	-	-	-	1 617.72	608.76	821.38	153.90	605.57	953.27	1 140.54	837.96
13	-	228.00	975.90	706.02	828.00	659.32	592.70	899.18	554.89	91.20	702.23	-
14	-	228.00	665.02	539.18	710.09	739.05	555.06	542.18	519.44	474.46	190.60	297.41
15	-	-	-	249.11	485.40	912.32	962.22	1 191.64	1 343.83	817.95	1 169.13	1 792.25

repair of the holiday house Lekkerwater on or before April 1990, if not, why not, if so, what are the relevant details?
N1590E

The MINISTER OF FINANCE

No The former Cape Provincial Administration was approached to accept the gift for the upgrading and repair of the holiday house. The Executive Council of the Province approved the upgrading and repair of the house on 10 April 1990 and it was consequently not referred to the Treasury (then part of the Department of Finance) for approval

Amnesty: cut-off date

*29 Mr C J van R BOTHA asked the Minister of Justice

- (1) Whether he intends introducing legislation to change the cut-off date in respect of the granting of amnesty, if not, why not, if so, when,
- (2) whether any delay has been experienced in this regard, if so, why,
- (3) whether such delay has led to the postponement of two amnesty hearings and/or a growing backlog in the work of the Truth and Reconciliation Commission, if not, what is the position in this regard, if so, what are the relevant details,
- (4) whether he will make a statement on the matter?
N1591E

The MINISTER OF JUSTICE

- (1) A Constitutional Amendment Bill to make provision for the extension of the cut-off date in respect of the granting of amnesty has been introduced in Parliament by the Minister for Provincial Affairs and Constitutional Development
- (2) No Once the Bill was approved by Cabinet all efforts were made to comply with time periods required by the Constitution
- (3) According to the Chief Executive Officer of the Truth and Reconciliation mission it is not clear as to which specific amnesty hearings the honourable member is referring to. Amnesty hearings have been postponed for a variety of

reasons. However, even in cases where amnesty matters do not fall within the previous cut-off date, the TRC can still receive evidence on it and the Amnesty Committee will postpone making a decision on the matter until the Constitutional Amendment is effected. In any event, in view of the large number of amnesty applications which have been received, there is sufficient work for the Amnesty Committee to continue with pending the Constitutional Amendment

- (4) A statement is not necessary

SANDF: trade union

*30 Mr J A MARAIS asked the Minister of Defence

- (1) Whether he has lent his support to the legalisation of a trade union for members of the South African National Defence Force, if not, what is the position in this regard, if so, why,
- (2) whether he will make a statement on the matter?
N1592E

The MINISTER OF DEFENCE

- (1) No I have not lent my support to the legalisation of a trade union for uniformed members of the SANDF

In the White Paper, approved by Parliament in May 1996, the Government's position regarding labour relations arrangements for the military are clearly spelt out in Chapter 5

Investigations are already advanced regarding the creation of suitable empowering mechanisms to expand the means by which the needs of uniformed members can be addressed

- (2) The State acknowledges its obligation to protect and further the interest of the uniformed members of the SANDF, who by regulation, are prevented from organising themselves collectively for reasons of bargaining with the State

As I have already said, investigations are well advanced regarding the development of a mechanism for the uniformed member

The new Defence Act will definitely address this issue and as with all draft legislation, it will be discussed in detail in consultation with the Joint Standing Committee on Defence and all other interested parties

Basic Conditions of Employment Act: impact

*31 Comdt A BLAAS asked the Minister of Labour

Whether his Department has done research into and/or made international comparisons regarding the impact that the proposed Basic Conditions of Employment Act will have on the Republic's ability to create more jobs, if not, why not, if so, what are the relevant details?
N1593E

The MINISTER OF LABOUR

Yes, the Department has done research and made an international comparison on the impact of basic conditions of employment on the ability of the country to create jobs

A research paper, focusing on the impact of hours of work on employment creation, was commissioned to feed into the draft Green Paper on Policy Proposals for a New Employment Standards Statute which was published in February 1996. Further, Departmental officials and the drafters of the proposed Bill have visited the International Labour Organisation and held discussions with international experts

It is widely acknowledged that the international community (governments and academics alike) are divided on this issue. As the World Employment Report 1996/7 states

"[There is] considerable disagreement about the impact of labour market institutions and policies on economic development and employment creation in developing countries." The Report goes on to summarise the two divergent views

The first view argues that labour market regulations "distort" otherwise perfectly functioning competitive markets. The second view stresses that labour market institutions and policies help to reduce poverty, improve productivity and foster economic growth, thus enhancing social welfare in developing countries

The report also quotes a recent econometric study which shows that measures of severance pay, maternity leave and paid annual leave do not have any significant effect on the growth rates of either total employment or output in Latin America or the Caribbean.

In respect of the impact of a reduction in the hours of work on job creation, the Department looked extensively at the international literature on the subject and came to the conclusion that reducing hours of work had a minimal or no impact on job creation. However the research showed that a greater positive effect could possibly be achieved where a concerted policy of job creation accompanies a reduction in working time

This is one of the reasons why the Department is arguing for a multi-faceted approach to the creation of jobs. A single legislative measure on its own can have an impact, negatively or positively, on the creation of jobs. The details of such an approach will be released shortly in our Employment Strategy document as part of the process leading up to the Jobs Summit

Road deaths: impact of advertisement

*32 Mr J S A MAVUSO asked the Minister of Transport †

- (1) Whether his Department's attention has been drawn to an advertisement which appeared in the federal state of Victoria in Australia and which had a significant effect on the number of road deaths in Australia, if so, what are the relevant details,

- (2) whether, with reference to press reports which appeared on or about 25 June 1997, the Australian authorities presented a video of this advertisement to his Department to be used free of charge on South African television, if so, when,

- (3) whether he or she or his Department has decided to use this video, if not, (a) why not and (b) who took this decision,

- (4) whether he will make a statement on the matter?
N1594E

Long-awaited Housing Bill is tabled in Parliament

Jacob Dlamini

CAPE TOWN — The long-awaited Housing Bill, giving broad effect to government's housing white paper and abolishing the National Housing Board, was tabled in Parliament yesterday.

The bill provides for the scrapping of the R9,7bn local government debt to the National Housing Board, which is to be replaced by an advisory body called the SA Housing Board. The

provincial housing boards will remain, although there is an opening for them to be abolished at some unspecified time in the future.

The bill is intended to facilitate co-operation between government, the private sector and communities through a sustainable housing delivery programme. It also seeks to repeal the existing host of legislation on housing and to establish a constitutional framework for the programme. There will also be a national hous-

ing code which will be used to ensure there is a legal basis for the publication of the national housing policy and all frameworks set by the ministry.

In terms of the bill, private and public development will be encouraged on-ly in areas that allow access to health, social and educational amenities and offer access to economic opportunities.

The bill lays down a set of basic guidelines for local government A provinces and national government. A memorandum attached to the bill

states that the guidelines are designed to create certainty among stakeholders over government housing policy in order to accelerate delivery.

The bill provides for the housing department's director-general to control and manage state money set aside for housing and to disburse this to the provincial housing boards.

It also provides for the establishment of a national housing data bank and an information system to boost the delivery of houses.

Eight people murdered by gunmen in violence-torn Eastern Cape

UMTATA — Armed attackers murdered eight people in violence-torn Qumbu in the Eastern Cape on Sunday night, a day after four people were shot dead by bala-clava-clad men. Police spokesman

Supt Monde Ngadini said six women and a four-year-old boy were slain by the gunmen in one homestead at Debeza on Sunday.

Ngadini said the attackers burst into the homestead about 11pm and opened fire indiscriminately on the nine occupants, leaving seven dead and one woman seriously wounded. One woman escaped unhurt. The attackers, armed with R-4 and R-5 rifles, set the homestead on fire after the shooting.

The same neighbourhood and shot dead a 41-year-old man. The gunmen set the body on fire and fled. There was no immediate explanation for the massacre. Qumbu and the nearby area of Tsolo have been wracked by violence that has claimed a number of lives. On Saturday night, gunmen wearing bala-clavas shot dead four men in separate incidents in Qumbu's Ngcoti location. Ngadini said one man was shot dead in front of his wife. He said the gunmen

Committee approves new work injuries bill

CAPE TOWN — Parliament's labour committee yesterday approved a bill reforming legislation on compensation for occupational injuries.

The Compensation for Occupational Injuries and Diseases Amendment Bill is intended to make old legislation compatible with the provisions of last year's Unemployment Insurance Act.

In terms of the bill decision making and the 595-strong staff of the compensation commissioner are to be placed under the labour director-general.

The bill provides for the payment of benefits and medical expenses to the dependants of workers who sustain fatal or disabling injuries or diseases in the course of their work.

Meanwhile, Business SA has expressed concern over inadequate employer representation provided by the bill, calling it a "flagrant denial of social partnership".

The bill, which will also be discussed by the National Economic Development and Labour Council, makes provision for five members to represent the interests of all employees on the compensation board, but only three to represent employers' interests.

"Business SA believes sincerely that a balance of power between business and labour in national institutions is necessary if their respective interests are to be equitably represented," Botha said.

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Cosatu lists 'major' labour law changes

ET(BR) 4/9/97

(166)

FRANK NXUMALO

Johannesburg — The reforming of labour laws since South Africa's transition to democracy were significant steps forward for workers and the labour movement, Cosatu said yesterday in its secretariat report to be presented at its forthcoming sixth congress, from September 16 to 19.

Nowethu Mpathi, a spokesman for the labour federation, said labour law reforms such as the new Labour Relations Act, the draft Basic Conditions of Employment Bill, the proposed employment equity statute, the skills development strategy and the Compensation for Occupational Injuries and Diseases Bill represented "a major advance from apartheid legislation".

She said a historic victory was scored by the union federation when its submissions on the pensions bill resulted in the increase of worker representation on the Board of Pension Managers from a third to a half, "despite opposition from the industry, business in general and their representatives in parliament".

Mpathi said: "We registered our opposition to legislation which deprived the SABC of revenue from the sale of its radio stations.

"Our approach is that revenue generated through the restructuring of state assets should be reinvested into these public enterprises to ensure a more effective public service."

She said in the case of tax holidays Cosatu took the view that proposals to exempt certain companies from paying tax (in terms of the Gear policy) was problematic as it undermined the country's tax base, threatened businesses paying taxes in the same sector and entailed a further shift of the tax burden to working people.

New SA faces old labour problems

CT(BR) 8/9/97
FRANK NXUMALO

Johannesburg — South Africa's transition to democracy in 1994 changed the political landscape and introduced new challenges for the labour movement, but today the problems that confronted workers before that watershed remain largely the same

Working conditions on farms, mines, factories, offices and shops have not changed dramatically with the demise of apartheid. The industrial colour bar remains intact. Salaries, especially on the farms, remain exceedingly low.

A recent study by the Farmworkers' Research and Resource Project, a non-governmental organisation working with farmworkers, shows that on most farms the total wages (in cash and kind) for women and children are as low as R100 a month.

Male workers are a little bit better off at R250 a month

Moreover, democratisation did not translate into an employment boom. On the contrary, the economy shed thousands of jobs, swelling the ranks of the unemployed

This combination of old problems and the new order — especially the growth of a black middle class, the culture of self-enrichment and the loss of versatile and highly experienced trade unionists to government and business — makes the task of organising workers in the new South Africa a difficult one

The country's overwhelmingly black labour movement is wakening to the rude reality that there is no difference between white and black capitalists, after having faced former comrades-in-arms over the retrenchments of thousands of workers

The class factor in trade union activity has also meant unions have had to show potential recruits why it is an advantage to join. By and large, voluntarism is being relegated to history

James Motlatsi, the president of the National Union of Mineworkers (NUM), said that during the dark days of apartheid many people thought that as black people they did not have a class problem, only a racial one.

Some people believed that once the racial issues were solved, everything should have been fine, he said

"Although racial discrimination is now officially abolished and a few blacks have infiltrated the top of the triangles, the vast majority still feel discrimination is real," Motlatsi said last month at the Cosatu "Them and Us" con-

ference on the reorganisation of the workplace

"Wages are painfully low; working conditions are unpleasant, arduous and often dangerous, in the mines very little has changed," he said

He said mines still employed migrant labourers who lived in single-sex hostels and rarely saw their families

"Hundreds die each year and thousands are injured as before, owing to mine accidents; many



James Motlatsi

are sick and die of silicosis, emphysema and asbestosis through the generation of dust underground; the spread of contagious diseases such as TB, VD and Aids is rampant," he said

Motlatsi warned in the new South Africa it would be fallacious for the labour movement to blame these adverse conditions on apartheid alone, as the situation was much more complex.

"Some of us are now having to confront black employers and black managers. We are finding that they are no different from white ones," he said "This can only be explained by the fact that capitalism is the source of the problems. A white capitalist is no worse than a black one"

Motlatsi said these new conditions meant trade unions had to show potential members, by the quality of the services they provided — including legal protection, educational assistance and social security benefits — that it was better to join a union than remain outside it

This has been a particularly arduous task for the NUM, which has never had to persuade mineworkers to join it. At the height of the racial conflict in the mid-1980s, when every ailment in society was blamed on the pariah apartheid state, NUM membership soared from 12 000 members in 1983 to 300 000 in 1987.

Motlatsi said other powerful tools available to trade union leaders in organising workers in the new dispensation included quality shopsteward education and the real value to workers of collective action.

"Collective action gives individuals strength, it does not displace them," he said "It gives protection to individuals so that they can speak their minds without fear of reprisals, and facilitates the development of radical opinions which individuals would never express themselves"

From Motlatsi's argument it would appear that for unions to succeed at all, they would need a radical change of mind-set through quality union education of their shopstewards and members

Sacob holds its counsel on affirmative action law

CT 8/19/97

(166)

NCABA HLOPHE

Johannesburg — The South African Chamber of Business (Sacob) would adopt a "wait and see" attitude toward the draft affirmative action law due out by the end of the year, Harry Bezuidenhout, Sacob's director of labour affairs, said last week.

He said Sacob supported affirmative action as a principle, but added that Sacob would reject any imposition of quotas by government.

"We would wait and see how the legislation is structured as we already subscribe to the principle. But we would not approve if government proposed imposing quotas on business because we are not in favour of appointing people for the sake of filling numbers," he said.

Tito Mboweni, the labour minister, last week told the Cape Chamber of Business the law

would require every business to have an affirmative action plan for government to peruse if need be.

"The bill would start a process of deliberate inclusion in the economy of those sections of the population previously excluded.

"Government would merely ensure every business has a plan and monitor the progress made with the implementation of those plans," the minister said.

However, each business would be allowed to implement its plan at its own pace and decide how to restructure its workforce. But government would call on business to show and motivate its plans, and implementation and progress would be monitored.

"Plans would include timetables and targets for changing the racial composition of the workforce to represent the population. Business would have to start by looking at the current profile of its workforce," Mboweni added.

Cosatu to continue negotiations on labour bill

Reneé Grawitzky

766
80819/97
THE Congress of SA Trade Unions (Cosatu) resolved on Friday to continue negotiations on the proposals tabled by the African National Congress to break the logjam on the Basic Conditions of Employment Bill

Cosatu assistant general secretary Zwelanzima Vavi said the executive committee had adopted a new mandate to continue negotiations around the bill

Labour sources said some delegates finally realised that Labour Minister Tito Mboweni was serious when he threatened to withdraw the bill from Parliament this year if consensus was not reached. This was reinforced by the fact that it had not been discussed by the cabinet last week, as scheduled in terms of Mboweni's initial timetable to ensure it was tabled by September 15

Other labour sources said government had indicated it might

still be possible to ensure the bill was tabled in October

A senior government source said last week it would require a miracle or major political intervention to get another date for the bill to be tabled in Parliament.

The labour source said the executive committee mood had "softened" in the wake of the alliance summit last week. It was time for all parties to show a willingness to negotiate, instead of digging into entrenched positions, he said

Labour-business impasse goes on

Nowetu 9/9/97 (~~1bb~~) (1bb)

By Abdul Milazi

THE Basic Conditions of Employment Bill is unlikely to be passed this year as business and labour continue to avoid each other, industrial relations experts said yesterday.

Organised business and the Congress of South African Trade Unions have not talked in more than a month after negotiations deadlocked on certain provisions of the Bill.

Labour expert Gavin Weiner said that the extension of the deadline for the Bill to be submitted to Parliament from September 15 to October as speculated in the media, could have worked if the parties were talking.

Labour Minister Tito Mboweni was reported at the weekend to have blamed business for the impasse saying a settlement could have been reached had they not indicted Cosatu on two occasions over planned mass

Basic Conditions of Employment Bill unlikely to be passed this year

action against the Bill

A reliable source in Government said it would take a major political intervention to have the September 15 deadline for the Bill to be submitted to Parliament extended.

Business and Cosatu failed to meet the August 15 deadline to reach consensus.

The source said "Mboweni cannot risk pushing the Bill through without consensus having been reached at the National Economic Development and Labour Council (Nedlac).

If labour and business continue avoiding each other, Mboweni may have to withdraw it as he has warned."

Cosatu yesterday denied media reports that it is to continue negotia-

tions on the Bill

Cosatu spokeswoman Nowetu Mpati "Who are we to negotiate with because we are currently not talking to business. The only mandate Cosatu was given at a special executive meeting last Friday was to review the alliance proposals towards reaching a political settlement on the Bill."

Mpati said Cosatu's aim was still to see that the Bill went to Parliament and have it debated and passed there, since business was not willing to accede to workers' demands.

She said this was what the alliance partners were debating.

"Currently we are only negotiating with the African National Congress and not with business."

TOUGH LINE ON HARASSMENT

A wink is as bad as a nod to metro workers

GOOD INTENTIONS don't count if anything you say or do is construed as sexual harassment by a fellow metro council worker, male or female. **CLAUDIA CAVANAGH** reports.

CAPE Metropolitan Council employees who are loose tongued, fond of a cuddle and enjoy the occasional dirty joke could be in for a rude shock with the imminent introduction of the council's strict new sexual harassment policy.

Believed to be the first of its kind for councils in the Western Cape and possibly the country, the policy warns employees that simply calling a colleague "honey, dear or sweetheart", regaling fellow workers with an off-colour joke or "puckering one's lips suggestively" may well land them in hot water.

"Compliments like: 'Nice legs! You look sexy in that outfit!' can make individuals feel uncomfortable or worse," cautions the policy document approved last week by the CMC's human resources committee

It is anticipated that the document will be given the green light by the full metropolitan council by the end of the month.

'Squeezing a worker's shoulder, putting a hand around his or her waist or "making obscene signs with one's fingers or hands" are all unwise actions that could result in a complaint being laid.

And don't think only women are victims in these cases "Studies show that the number of non-traditional sexual harassment complaints is increasing," says the document.

"Even a wink across a table, with no connotations attached,

could be construed as harassment," chairman of the committee Mr David Dlalé said yesterday.

He agreed that the policy was tight, stressing that it was a "first step in the right direction" rather than carved in stone

"The CMC is adopting a proactive approach from which Metropolitan Local Councils can take a lead," he said.

Chairman of exco, Mr Pierre Uys, said the policy "must be strict"

"For both sides' sake, people must

have clear guidelines so that they know where they have to stop," he said.

The comprehensive policy, also offers advice for specific situations

If, for instance, someone means no harm by "friendly" behaviour and "harmless" joking, not intending to hurt anyone's feelings, is he or she still guilty of sexual harassment or discrimination?

"Probably yes," the document advises. Apparently, guilt in this case is determined by how the behaviour is received and not necessarily by how it is intended.

"Anyone in a command posi-

tion who uses or condones any form of sexual behaviour to control, influence or affect the career, pay or job situation of a council employee is engaging in sexual harassment," in terms of the new policy

"Any employee who makes deliberate or repeated unwelcome verbal comments, gestures or physical contact of a sexual nature in the workplace is also engaging in sexual harassment.

"If you feel that you may have sexually harassed someone," it urges, "Apologise."

Then ask another person or a supervisor for advice and help.

Recipients of unwelcome attentions should first try to solve the

problem informally.

If this doesn't work, a specially formed "harassment grievance committee" will be called in to investigate.

If it finds that the incident did indeed occur, the culprit could, depending on its seriousness, escape with a warning or face a disciplinary hearing

Whatever happens, the issue must be tackled, says the document: "Ignoring sexual harassment won't make it go away. Doing nothing about it can only increase the likelihood of your organisation being involved in legal disciplinary action."

Calling a colleague "honey, dear or sweetheart", regaling fellow workers with an off-colour joke or "puckering one's lips suggestively" may well land Metropolitan Council employees in hot water.

Progress in talks on employment bill

Reneé Grawitzky

10/9/97 (166)

GOVERNMENT and Business SA meet this week to discuss a settlement which is being hammered out between the Congress of SA Trade Unions (Cosatu) and the African National Congress (ANC) on the Basic Conditions of Employment Bill

All parties were tight-lipped last night in an attempt to deflect media attention from the behind-the-scenes attempts to reach a compromise

It is understood that a cabinet committee meets today to decide whether or not the bill will go to Parliament this year. The ANC's national working committee was to have discussed this issue on Monday

A labour source said government had indicated that it might be possible for the bill to be tabled in October, even though the initial deadline of September 15 had passed.

The last-minute bid to broker a deal takes place in the wake of a Cosatu executive committee decision on Friday "to continue negotiations" with the ANC. It is understood that Cosatu has requested a meeting with the ANC.

Union sources said the executive committee had adopted options which could bring it and the ANC into a settlement area. Cosatu had appeared to accept a range of options which would accommodate business concerns around increasing costs and flexibility and meet some of labour's demands.

The source said Cosatu was prepared to consider the averaging of working hours over a period of time and reverting to overtime rates of time-and-a-third instead of the proposal in the bill for time-and-a-half and a reduction in pay for Sunday work.

Four months' paid maternity leave financed through the Unemployment Insurance Fund was still on the table.

Cosatu would be prepared to accept anything less than a 45-hour working week. However, a labour source said a lot depended on whether business was prepared to make some movement.

It is understood that the variation model, to vary conditions of employment up or down, has changed slightly from the position in the bill.

Sasol slams Cosatu's demands

Sowetan 11/9/97

(166)

By Abdul Milazi

SASOL yesterday fired the latest salvo in the battle between labour and business over the Basic Conditions of Employment Bill when it labelled the Congress of South African Trade Unions' demands as 'tantamount to the establishment of a privately funded social welfare system'

Sasol chairman Peter Kruger made the attack in the company's annual financial report

It came against the backdrop of Cosatu's threatened 48-hour national strike on the day labour and business make their respective submissions to Parliament. However no date has been set yet for the parties to make their submissions

The attack also came in the wake of a rumoured meeting between business and Cosatu this week. Both business and Cosatu, however, yesterday denied knowledge of any scheduled meeting between them

Cosatu spokeswoman Nowetu Mpati also denied media claims that there was "progress in talks on the employment Bill"

She also refuted claims that 'Cosatu was prepared to consider the averaging of working hours over a period of time and reverting to overtime rates of time-and-a-third' instead of the Bill's proposal for time-and-a-half

"The only time we will talk to business is when they are prepared to move from their position," said Mpati

Cosatu nevertheless remains "convinced that a solution to the current deadlock is within the reach of the (ANC-led) alliance"

Kruger said. The intransigence of Cosatu in its expressed determination to use strike action to promote its interest to the detriment of South Africa's competitiveness is counterproductive"

He said labour legislation should be tested against its capacity to create, and not to restrict employment

'At this time of fundamental economic restructuring, it would be an error to implement laws that would entrench a protected labour elite, drive up costs, inhibit labour mobility and sow the seeds of serious tensions between unionised and non-unionised workers,' said Kruger

Mboweni's time running

(166)

out over new labour bill

FRS 11/9/97

Cosatu's talks with business deadlocked

THABO MABASO
BUSINESS REPORTER

Time is running out for Labour Minister Tiko Mboweni to get his Basic Conditions of Employment Bill through parliament this year.

Mr Mboweni said last month that negotiations between labour and business over the bill should have been concluded by August 15.

The bill should then have been tabled for cabinet consideration on September 3, and put to Parliament to debate by September 15.

All these dates have now passed and Parliament goes for a two-week recess on September 19.

It will reopen on October 5 and close for the year on November 14.

Mr Mboweni's office would not comment yesterday on the chances of the bill going before Parliament

this session

Negotiations between Cosatu and business in the National Economic Development and Labour Council (Nedlac) have deadlocked.

Cosatu secretary general Tony

Ehrenreich told the Cape Argus that the federation was still keen that the employment bill go to Parliament during the current session.

"It is practically still possible for the bill to go to Parliament and that's what we want and are pushing for," Mr Ehrenreich said.

Meanwhile, labour relations practitioner Duncan Innes told the Cape

Argus that any agreement reached this year between Cosatu and business organisations would not last

'If they were to agree on anything now, they would have papered over the cracks'

because it would have been hurried and not considered carefully.

"I doubt if Tiko Mboweni would get business and labour to agree on anything on the issues that they have declared a

dispute on," Mr Innes said.

"If they were to agree on anything now, they would have papered over the cracks and that agreement would not be a strong one," he added.

A series of separate bilateral meetings between the African National Congress, Cosatu and business have failed to break the deadlock.

Cosatu is demanding the inclusion in the bill of provisions for a 40-hour week and for six months' maternity

leave, with four paid

Business organisations have said these provisions would increase labour costs substantially.

Mr Innes said that postponing negotiations on the bill until next year would give business and labour time to review the problems, and take a fresh look at them.

He suggested that Mr Mboweni should combine the negotiations on the employment bill, and the upcoming Skills and Employment Equity Bills, so as to allow trade-offs and compromises by the negotiating parties.

"It may be useful to go for the three in one goal, it saves time," Mr Innes said.

The Skills and Employment Equity Bills have been identified by Mr Mboweni as additional potential for conflict between labour and business.

No end to icy labour relations

FRANK NxUMALO

Johannesburg — Cosatu would not try to build relations with business during its forthcoming sixth congress scheduled for next week, Sam Shilowa, the labour federation's general secretary, said yesterday

Shilowa said until there was convergence of approach between business and labour towards developmental and transformation issues, there was no urgency in trying to bridge the country's strained industrial relations

Shilowa said "We think relations happen when there is a conducive climate. Presently, in this country, there is no climate conducive to strive to improve relations with the employer

"Our focus is rather building a strong Cosatu able to engage in issues pertinent to centralised bargaining. This, however, does not mean we won't talk to business"



OUR DAILY BREAD

Sam Shilowa, Cosatu's general secretary, adopts a prayerful pose

PHOTO JOHN WOODROOF

CT (MA) 12/9/97

Cosatu optimistic about employment bill

René Grawitzky

(166)
CONGRESS of SA Trade Unions (Cosatu) general secretary Sam Shilowa remained optimistic yesterday that a solution to breaking the log-jam on the Basic Conditions of Employment Bill could be found.

Addressing a media briefing yesterday, Shilowa said the bill should still go to Parliament this year. He was optimistic a solution could be found through the parliamentary committees and the alliance process. He did not expect a meeting with the African

BB 12/9/97
National Congress until after the Cosatu congress next week.

It is understood that the timing of the passage of the bill through Parliament was to have been discussed by the relevant cabinet committee this week. The outcome of the discussion could not be confirmed.

A labour source said Labour Minister Tito Mboweni was consulting social partners. Meanwhile, Business SA has been waiting for a meeting with the labour department since Tuesday when it was advised to be "on standby" to discuss the bill, sources said.

Council may act on 'referral incentives'

Josey Ballenger

DD 12/9/97

THE Interim National Medical and Dental Council of SA has decried the "escalation" of patient referrals to private hospitals which offer financial or other incentives when a better alternative existed, and is investigating taking disciplinary action against unethical health practitioners.

The council said in a written release yesterday it was "perturbed about the apparent escalation of unacceptable practices relating to perverse incentives," or kickbacks, offered by private hospitals to practitioners to "overutilise" services offered by these hospitals. Although the council had not received formal complaints, it said incentives were becoming increasingly prevalent "as many hospitals have become more aggressive in their attempts to recruit doctors and increase patient referrals".

All doctors, dentists and supplementary health practitioners in SA are required to be registered members of the council. The statutory body said it was also perturbed by the "apparent inability" of the medical profession to apply self-regulatory mechanisms to curb the acceptance of such schemes.

The council said it would establish a steering committee to investigate setting up a peer review committee consisting of representatives from the council, the Hospital Association of SA and organised professional bodies such as medical associations.

The peer review committee would develop guidelines on what constituted ethically acceptable arrangements between private hospitals and practitioners regarding incentives.

"Council must ... look at the issue of 'kickbacks' in terms of what it could mean for the public in general," council president Salomen Kallichurum said.

the testimony of the security
of the truth commission's
was arrested and tortured

Picture AP

Cosatu optimistic about employment bill

Reneé Grawitzky

(166)

DD 12/9/97
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Mandela offers De Klerk role in nation-building

CAPE TOWN — President Nelson Mandela said yesterday he believed it would be in the interest of nation-build-

nessman Richard Branson at Tuynhuis

Asked whether he envisaged De Klerk as a roving ambassador the

given "something where he can use his talent, not as a leader of a political party, but as one of the most eminent South

Most say winks ~~(scribble)~~ and jokes rules go ⁽¹⁶⁶⁾ too far

Star 13/9/97
By DEIRDRE HUSSEY

Men who work at the Cape Metropolitan Council say life will no longer be the same if they are banned from touching, winking at or cracking naughty jokes with colleagues.

But many women at the council are delighted at the prospect of being freed from the flirtation and off-colour jokes of their male colleagues.

The council's proposed policy to end sexual harassment among its employees includes a proposed ban on puckering the lips in a suggestive manner, calling anyone "honey, dear or sweetheart", or making obscene gestures. Any squeezing of parts of the anatomy such as shoulders and waists will be frowned upon.

Every male employee canvassed by our correspondent thought the new policy was "ridiculous", but the women workers were divided.

Some agreed with their male colleagues that the new policy went too far. Other were delighted that they would be protected from the unwanted advances and lewd suggestions of the men who work with them.

All those interviewed said they had been unaware of the proposed new policy until they had read about it in the press this week. The council is due to pass the new policy next month.

Harsh

"I had no idea about the plan and I think it is ridiculous," said a woman administrative employee, who, like her colleagues, asked not to be named.

"It is a bit harsh," said a male employee. "It seems like what they are saying is that all men have on their mind is getting cheap thrills from female employees."

"It's a bit pathetic and goes too far," said a female official, to a chorus of agreement from her male colleagues.

"I don't think it's ridiculous or harsh," added a woman colleague. "This is a very sexist society we live in. If extreme measures have to be taken, then so be it."

"It is a thick document that covers a range of areas, from how to deal with sexual harassment, to what can be construed as sexual harassment," said senior industrial relations officer Manka Krieg.

"The document makes people aware of what may be offensive to other colleagues."

Krieg said many female employees welcomed the plan but many male employees had perceived it as a direct attack on themselves.

"We have tried real hard to make it a gender-neutral document, that does not focus on the behaviour of men or women but the behaviour of people," she said.

Employment bill: Tito calls extraordinary news briefing

THABO MABASO
BUSINESS REPORTER

(166)
ARC 13/9/97
Minister of Labour Tito Mboweni has called a news conference on the Basic Conditions of Employment Bill for tomorrow, fuelling speculation that a deal between labour and business may have been reached.

The four line announcement said Mr Mboweni would brief the media about developments regarding the bill. Officials in the Ministry of Labour were tight-lipped about the details of the news conference.

What has fuelled speculation further is that the Congress of South African Trade Unions (Cosatu) held an executive committee meeting last Friday, where a position on the bill was apparently adopted. Cosatu has refused to release details of the meeting to the media.

"The contents of the executive committee deliberations will not be released to the media. The Alliance partners can not discuss this matter or negotiate via the media," the statement said.

Negotiations to break the deadlock over the bill have been going on more than three months at the National Economic, Development and Labour Council (Nedlac).

Cosatu is arguing for a 40-hour working week and six months maternity leave of which four months would be paid. Business organisations have said these demands would increase labour costs.

Sexual harassment guidelines mean life will never be the

DEIRDRE HUSSEY

Men who work at the Cape Metropolitan Council say life will no longer be the same if they are banned from touching, winking at or cracking naughty jokes with colleagues.

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"It's a bit pathetic and goes too far," said a female official, to a chorus of agreement of her male colleagues

"I don't think it ridiculous or harsh," added a woman colleague

"This is a very sexist society we live in. If extreme measures have to be taken, in order to sensitize males and

males to what is offensive behaviour, then so be it"

"It is a thick document that covers a range of areas - from how to deal with sexual harassment, to what can be construed as sexual harassment,"

said Senior Industrial Relations Officer Manka Krieg

"The document makes people aware of what may be offensive to other colleagues"

Ms Krieg said many female employees welcomed the plan but many male employees had perceived it as a "direct attack on them"

"We have tried hard to make it a gender-neutral document, that does not focus on the behaviour of men, or women but the behaviour of people," she said

The council is due to pass the new policy next month

same at the council

166

APR 13 1994

LABOUR Cabinet green light for Basic Conditions of Employment Bill

Workers' bill approved

CT(MR)15/9/97 (166)

FRANK NXUMALO

Johannesburg — The cabinet had approved a revised version of the Basic Conditions of Employment Bill to be tabled for parliamentary deliberations during the current session, Tito Mboweni, the labour minister, said yesterday

According to the revised version, the phasing in of a 40-hour week will be addressed through collective bargaining and the statutory setting of conditions of work by an Employment Conditions Commission (ECC) for unorganised labour and an 18-month investigation on a national and sectoral basis

The new-look ECC will include two members directly nominated by labour and business. The minister will appoint the chairman and two other expert members after consultations with Nedlac

An overtime rate at time-and-a-half and averaging of working time over four months are unchanged

Maternity leave remains at four months (from three months previously) but the level of pay, duration and mechanism of payment (proposed to be through the Unemployment Insurance Fund) can be reviewed after the ministerial task team report. Flexibility will be monitored by the ECC

Mboweni said the tabling of the bill would mark the end of a long and difficult process. He said he had initiated a process of bilateral talks with business and labour after negotiations hit a deadlock in May at Nedlac, to explore whether a basis existed for a consensus on the bill

Mboweni said the bilaterals in July and August dealt at length with areas of disagreements and clarity of some of the draft provisions. He said the talks sensitised the department

to the views of the parties on labour market fundamentals

"Arising out of the above process, as well as discussions within government and within the alliance, I am now confident that sufficient consensus exists for the bill to be taken to parliament," the minister said

"All the parties have indicated that the bulk of the bill is acceptable to them and that the bill is significantly better than what exists presently

"I also had to consider the implications for about 4,5 mil-

lion vulnerable and unorganised workers if the bill were to be taken off the table. It is these workers who would lose the most"

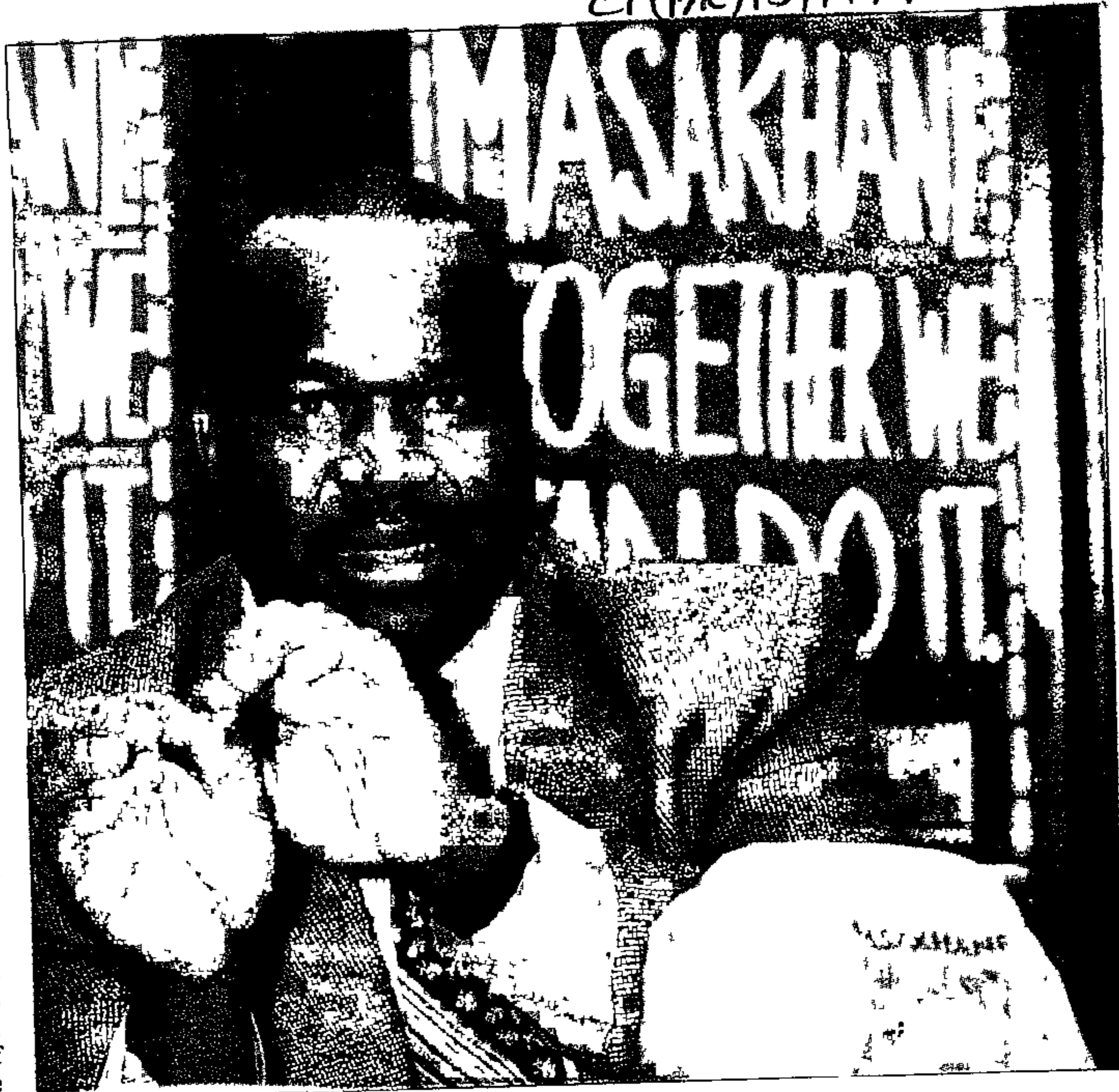
Mboweni said if the current Basic Conditions of Employment Act were to remain in force, there would be no statutory mechanisms sanctioning child labour, protecting part-time workers or extending wage settings to domestic and farm workers

He said a Nedlac report would have to be agreed on and

submitted to parliament in terms of the Nedlac Act. The department would have to lobby Steve Tshwete, the sports minister who is also the leader of the house, for a parliamentary slot

He said he wanted to emphasise that it had been a "very difficult" process that required all participants to compromise

"I am pleased that the bill is going forward so that in the near future we can bring a better working life to vulnerable and unorganised workers," Mboweni said



BUILDING BETTER CONDITIONS Tito Mboweni, the labour minister, announces that consensus has been achieved on the revised employment bill, to go before parliament this session

PHOTO JOHN WOODROOF

Employment bill will be tabled — minister

DD 15/9/97

(1bb)

René Grawitzky

LABOUR Minister Tito Mboweni said yesterday he would push the Basic Conditions of Employment Bill through Parliament this year as he was confident "sufficient consensus" had been reached between labour, government and business on its contents.

However, it is not clear that labour and business agree that sufficient consensus has been reached. If not, they are likely to continue lobbying their positions during the passage of the bill through the parliamentary process.

An amended bill, released yesterday and approved by a cabinet committee last week, is expected to be tabled in Parliament during the final sitting.

The parties declined to comment, having given Mboweni an undertaking that they would respond only today.

The amendments attempt to move closer to, but do not quite meet, labour's demands for a 40-hour working week, four months' paid maternity leave and ensuring that minimum conditions of employment cannot be varied downwards if workers, on the whole, will become worse off.

The bill includes a schedule that records procedures for achieving a 40-hour week. It says this goal can be achieved through collective bargaining and sectoral determinations but must take into account the effect on job cre-

ation, economic efficiency and the health and safety of workers.

The Employment Conditions Commission, a successor to the wage board established to advise the minister on sectoral determinations and any matter concerning basic conditions of employment, may investigate the possibility of reducing working hours in a particular sector and make recommendations to the minister.

Within 18 months of the promulgation of the act the labour department, in consultation with the commission, must complete an investigation on ways to reduce weekly working hours to 40. Thereafter the department must monitor and review progress, with a report being published every five years.

As in the previous bill tabled in April, the jobs of women on maternity leave will be protected for four months. The question of payment and scope will be determined by a ministerial task team, which was established to investigate maternity benefits of the Unemployment Insurance Fund. Mboweni said those who did not contribute could not benefit from the fund.

Employers are likely to react strongly to the changes to the variation clause which allow parties to vary conditions of employment but at the same time grant the minister greater discretion to intervene in collective bargaining agreements, even those res-

within bargaining councils. The bill previously appeared to allow for wider scope to vary standards without ministerial intervention.

The amended provision also effectively restricts bargaining councils from varying two new issues — two weeks' annual leave and health and safety provisions for night work.

Other agreements may vary standards but only within the terms provided for in the bill.

The commission will have additional powers to monitor collective bargaining agreements to ensure workers on the whole are not worse off.

As in the previous bill, maximum weekly working hours for all workers will be reduced to 45, overtime pay rates will increase from time-and-a-third to time-and-a-half, and prohibitions on Sunday work will be removed but a premium of double pay for workers who do not ordinarily work on a Sunday, and time-and-a-half for those who do, will be retained.

The bill also retains some flexibility by allowing compressed working weeks where an employee can work up to 12 hours a day without receiving overtime. Mining and agriculture employers will receive some respite with an additional six months to phase in the new conditions.

Picture: Page 3

RTUNITIES

Patrick Wadula

GOVERNMENT has sent a clear signal to SA companies eyeing southern Africa that they should not export cheap wage production strategies to the region

Public Enterprises Minister Stella Sigcau said recently at Minecon '97, an exhibition for the mining, quarrying, construction, municipal and civil engineering sectors, that SA firms operating in neighbouring countries had to ensure workers there enjoyed the same rights as their SA counterparts

The minister's remarks come amid growing concerns that SA jobs were being exported to neighbouring nations by companies looking for cheap labour.

Govt warns against cheap labour practices.

(166) (166) She said the mining and construction industries had historically served as important links between sub-Saharan countries

"Some of the initiatives within the framework of the Southern African Development Corporation with regard to the construction sector are indeed encouraging," she said

Sigcau said co-operation would mean sharing information, skills, markets and technologies in the sector. It also implied adopting a civilised approach to labour and the movement of people across borders

The challenge remained the development of progressive labour practices in countries throughout region

She said the key objective of the exhibition was to expose the mining and construction industries to new products.

"The greatest test for the new products is their contribution in improving productivity levels in the two industries without the shedding of jobs," Sigcau said

She said that the technology produced had to be rooted in the social conditions facing the people of SA and Southern Africa

Employment bill ready to go to

Mboweni tells of breakthrough after long and

(166)

Johannesburg.—Consensus between labour and business had finally been reached and the long-disputed Basic Conditions of Employment Bill could now be presented to Parliament, Labour Minister Tito Mboweni said here. He told a media conference that

reaching consensus had been a long and difficult process. While business and labour still disagreed on certain issues, they were free to record their objections, which could be reconsidered in the future, Mr Mboweni said. After negotiations in the National

Economic Development and Labour Council (Mediac) reached an impasse in May, he initiated discussions with business and labour to establish a basis for an agreement on the bill. Meetings during July and August dealt with issues in dispute between business and labour.

All parties had indicated that the bulk of the bill was acceptable. "I am now confident that sufficient consensus exists for the bill to be taken to parliament," Mr Mboweni said. "I also had to consider the implications for about 4.5 million vulnerable

and unorganised workers if the bill were to be taken off the table. It is these workers who would lose out the most. "Weak and ineffective enforcement mechanisms would remain in force. There would be no way of protecting employers who employ chil-

difficult negotiations

children under 15 years of age in hazardous circumstances," he said. "There would also have been little or no protection for part-time workers, commission-only workers, contract workers and home workers, while statutory wage setting would not have been extended to domestic

as well as farm workers, he said. Referring to work hours, a major issue in dispute, Mr Mboweni said that his department included a schedule in the draft bill to record procedures to reduce the maximum work time per week to a goal of 40 hours — Sapa

PARLIAMENT
15/9/92

JUDGMENTS 'MAY OPEN FLOODGATES'

Civil servants to gain from labour rulings

CT 16/9/97

THE DEPARTMENT of Correctional Services has been found guilty of unfair labour practices for placing staff in top posts without promoting them, **INGA MOLZEN** reports.

TWO landmark labour law judgments have far-reaching implications for employers' treatment of long-service staff and implementation of affirmative action policies.

In the first case, the Commission for Conciliation, Mediation and Arbitration (CCMA) found that the Department of Correctional Services had been guilty of an unfair labour practice by failing to pay an official for acting in a senior post.

In the second case, the Industrial Court found that the Department of Correctional Services had failed to promote a social welfare worker who had 15 years' meritorious service and was not paying her an appropriate package.

The judgments are expected to open the floodgates of litigation against the government by staff who serve in senior posts to which they have not been promoted.

Other test cases are already on the Industrial Court roll.

According to Mr Casper van Rensburg, general manager of the Public Servants Association (PSA), which has 1,2 million members, the "breakthrough" came with the CCMA's finding that the Department of Correctional Services was assigning people to act in senior positions without paying them for doing so.

The case arose from Warrant Officer W P Badenhorst's appointment two years ago as commander of the Wepener area outside Bloemfontein — a position previously held by a captain.

The CCMA ruled that Badenhorst should be promoted to lieutenant and that his promotion should be backdated with pay to

January 1996.

Badenhorst was also awarded compensation of R6 200.

The CCMA said the Department of Correctional Services' failure to promote Badenhorst was an unfair labour practice because he had received neither the financial compensation nor the benefits of the post.

The department's affirmative action policy, adopted in August 1995, was cited as the reason for the failure to promote Badenhorst, who had fulfilled his duties in manner that was "way above average". However, the department made no effort to find another suitable person for the position.

The CCMA was told that the affirmative action policy could not be applied in a fashion "so wide that it does not clearly identify boundaries of the policy and/or the persons whom the policy intends to benefit".

The department's head of personnel in the Free State, Mr G W van Niekerk, said the "broader policy of affirmative action" had prevented Badenhorst's promotion.

Mr C G Koorts, counsel for Badenhorst, argued that although affirmative action appointments were insulated against attacks on the grounds of unfair discrimination, this does not give employers "carte blanche".

In providing for affirmative action, the labour law allowed employers to adopt policies and practices that "achieve adequate protection and advancement" of persons or groups disadvantaged by unfair discrimination, thereby "ensuring the full and equal enjoyment of all rights and freedoms", Koorts said.

(166) (166)
Affirmative action programmes should be subject to limitations, he said. These included the time frame for their application in addressing artificial abnormalities in the labour market, at the end of which, when equality was achieved, certain practices would again become discriminatory and unjustifiable.

In the second case, the Industrial Court heard that social welfare worker Mrs Aloma Zandberg of Pretoria had almost 15 years' service with the Department of Correctional Services and had received many merit awards for excellence. However, she had not been promoted or paid appropriately.

She told the court she had served in many senior positions. Although she had been made many offers of promotion, these had brought only lesser transfer packages.

She had been deployed in various posts that were advertised but not filled, Zandberg said. Although she had been kept on in these positions, she had not been promoted to the rank of lieutenant, nor had she been paid in line with her responsibilities or competence.

The Industrial Court confirmed Zandberg's seniority and competence and awarded her backpay to October 1994.

Van Rensburg said he expected many similar claims for compensation to be made by officials who had "qualified for promotion and (served) in posts without compensation, recognition or promotion".

Thousands of staff members might stand to benefit from the rulings, he said. There were many public servants, particularly in the lower ranks and middle management, who performed adequately in senior positions but were not given the appropriate rank, service benefits and recognition.

Cosatu and BSA slam Tito's claim of consensus

(166)
FRANK NXUMALO

cl(BA) 16/9/97

Johannesburg — Business and labour said yesterday they both still had serious reservations about the Basic Conditions of Employment Bill, despite the sufficient consensus claimed by Tito Mboweni, the labour minister.

Mboweni said at the weekend that, following extensive bilateral talks, all parties had indicated the bulk of the bill was acceptable to them. He said he was "confident that sufficient consensus exists for the bill to be taken to parliament".

He dismissed as "nonsense" suggestions that business had been snubbed. However, Business South Africa (BSA) expressed shock and dismay at sections of the proposed law and said it had not been party to the development of certain new provisions.

BSA reacted sharply against the introduction of the goal of a statutory 40-hour week; the retention of an overtime pay premium at time and a half, ministerial discretion to intervene in bargaining council agreements on flexibility, and restrictions imposed on bargaining councils to varying the two weeks' annual leave and health and safety provisions.

"Business has argued that improved labour standards should not be at the expense of economic efficiency and job creation," said Adrian du Plessis, BSA's chief negotiator at Nedlac.

"On the basis of what business has now been advised, it is not possible to support fundamental terms of the bill."

Cosatu said it welcomed news that the bill was going to parliament, but it "rejected with contempt" suggestions there had been sufficient consensus around the revised version of the bill.

The South African Chamber of Business (Sacob) said it was "shocked" at the inclusion of a statutory schedule for moving towards a 40-hour week.

Business, labour dismiss claims of consensus

Vuyo Mvoko

EMPLOYER organisations and labour yesterday dismissed Labour Minister Tito Mboweni's claim that there was "sufficient consensus" among stakeholders over the Basic Conditions of Employment Bill.

On Sunday Mboweni released an amended version of the bill, which was approved by a cabinet

committee last week and would now be tabled before Parliament during its final sitting this year.

The minister said he was confident sufficient consensus had been reached between labour, business and the government over the bill's contents.

However, the Congress of SA Trade Unions (Cosatu) said yesterday that while it welcomed Mboweni's decision to finally put

the bill before Parliament and the new formulations in certain areas, the federation rejected "with contempt" reports that it had endorsed the bill.

Cosatu said there was still "no consensus on the core areas" of maternity leave, working hours, variation of conditions of employment and child labour.

Cosatu promised that its secretariat, at the federation's congress

which begins today, would outline a full response and approach on the bill.

Business SA (BSA), which confirmed meeting Mboweni on Friday, said it was rather "surprised" at his conclusion that sufficient consensus existed on the terms of the bill, to the extent that the minister would now permit the bill's reference to Parliament for finalisation this year.

Mboweni briefed BSA only "on the broad outline of the proposed bill as it had emerged from recent deliberations within government", BSA said. "Business was not party to the development of the proposals presented."

BSA had "consistently argued that improved labour standards should not be at the expense of economic efficiency and job creation." But the key terms of the

on bill

BD 16/9/97 (166)

revised version of the bill did not meet this requirement, BSA said. While BSA would continue to explore with all parties how to reconcile conflicting views around the bill, it said the draft bill was "unacceptable".

The Afrikaanse Handelsinstituut was "amazed" at Mboweni's "misleading" statements.

Comment: Page 11

Business rejects revised labour Bill

Sowetan
16/9/99
166

BSA says it was never consulted by the minister

By Abdul Milazi

BUSINESS YESTERDAY rejected the amended Basic Conditions of Employment Bill announced by Labour Minister Tito Mboweni at the weekend.

The Congress of South African Trade Unions (Cosatu) declined to comment before its national congress, which starts today.

Business South Africa (BSA) denied Mboweni's claim that consensus had been reached on the Bill, or that it was consulted when the amendments were made.

BSA said it was surprised when Mboweni announced on Sunday that sufficient consensus had been reached for the legislation to be tabled in Parliament.

Sources within the labour movement questioned whether the delay in

putting the legislation before Parliament could have been avoided.

A source said "When one looks at what the minister has done with the demand for a 40-hour week, maternity leave and the variation of employment standards, one wonders why it took him so long to make such simple adjustments."

When Cosatu pulled out of the National Economic Development and Labour Council (Nedlac) negotiations early this year it said the Bill should be debated in Parliament because there was no point in continuing talks with business.

In the amended version of the Bill Mboweni has included procedures to be followed to achieve a 40-hour week, a provision which has angered business.

The procedures are listed as "addressing the issue (40-hour week) in collective bargaining and through

statutory setting of working conditions by the Employment Conditions Commission (ECC) for unorganised workers."

Cosatu wanted the 40-hour week to be phased in over five years, or alternatively a written commitment by Government to that effect.

Mboweni has now promised to set up an 18-month investigation into its implementation.

Variation of employment standards by collective bargaining was one of the three models originally proposed in the Bill, which organised labour feared could be open to abuse by employers.

Mboweni argued at the time that there was limited scope to vary conditions through collective bargaining.

He said it was up to the unions in bargaining councils to reject a variation if they felt it was not appropriate.

Cosatu hails Mboweni's move on Bill

Sowetan

16/9/97

(166)

140A

Business South Africa denies consensus
has been reached on legislation

THE CONGRESS of South African Trade Unions (Cosatu) welcomed Labour Minister Mr Tito Mboweni's decision yesterday to refer a revised version of the Basic Conditions of Employment Bill to Parliament – but said there was still no consensus on the legislation.

“While we welcome new reformulations in certain areas, we want to place on record that it is our view that there is still no consensus on the core areas of maternity (leave) working hours, variation (of employment conditions) and child labour,” Cosatu said in a statement.

The federation rejected media reports that it had endorsed the revised Bill, saying it had yet to see any compromise by business.

Cosatu said it had proposed all along that negotiations within the National Economic Development and Labour Council be concluded, the areas of agreement and disagreement be recorded and the Bill be dealt with according to parliamentary process. It welcomed Mboweni's decision to do this.

A full response to the revised Bill and the approach Cosatu would adopt would be presented at the federation's annual congress, which begins on Tuesday.

Mboweni said on Sunday sufficient consensus between labour and business had been reached for the Bill to be presented to parliament.

Meanwhile, Business South Africa yesterday denied consensus had been reached on the Basic Conditions of Employment Bill, and rejected as “unacceptable” new proposals for the legislation.

BSA was particularly unhappy with the proposed introduction of a statutory goal of a 40-hour working week.

Overtime premium

“The increased overtime premium of time and a half has been retained. Business concerns with the extension of notice periods and certain costly leave provisions remain,” BSA said.

“This draft further increases the executive powers of the minister relative to the Employment Conditions Commission to determine basic conditions of employment. This is unacceptable to business.”

BSA said it had not been party to negotiations in drawing up the revised draft and expressed surprise at Mboweni's conclusion that sufficient consensus had been reached to permit it to be tabled in Parliament. – Sapa

Cosatu slams Business SA 'arrogance'

ET(BR) 19/9/87(16)

FRANK NYUMALO

Johannesburg — John Gomo, the president of Cosatu, the labour federation, yesterday slammed Business South Africa (BSA) for the lack of industrial peace in the country and dismissed the government macro-economic growth employment and redistribution (Gear) policy as "an empty shell which will not deliver any benefit to the working class".

Gomomo was addressing the more than 2 300 delegates at Cosatu's sixth congress at the World Trade Centre in Johannesburg. He said there could be no industrial peace in South Africa until business revisited its philosophical approach to labour market reform, fiscal policy and committed itself to engage positively in the transformation of the economy.

"The past few months have seen an arrogant approach by BSA at Nedlac. All issues placed on the table to bring about changes to the lives of our members have been rejected out of hand, and yet every day we are urged to co-operate with them in rebuilding our country and economy.

"I am for co-operation with business, but they have to commit themselves to engage



DELIVERING THE GOODS *Cosatu second vice-president, and Sam Shabane, the secretary-general, address delegates at the labour federation's sixth congress*

PHOTO: JOHN WOODROOF

positively to improve the lives of all South Africans.

"Until they do that, there can be no stable relationship between us and them," he said.

"Turning to macroeconomic policy, Gomomo said there had been no evidence of a scramble for investment by local and offshore businesses. This was even though Gear was similar to Growth For All. Growth For All,

a document drafted by the South African Foundation, which had as its focus the need to create a climate of investor confidence.

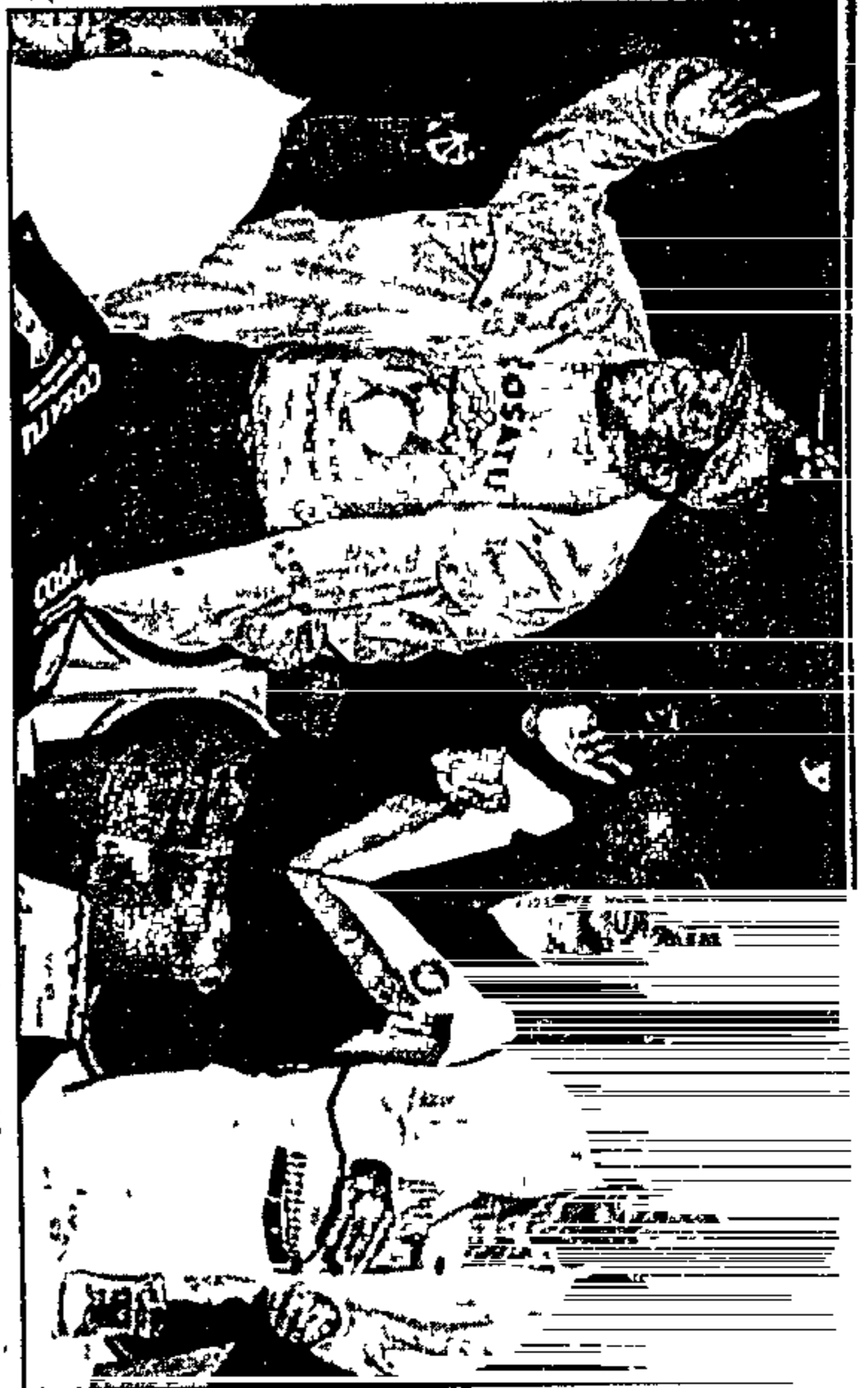
"They now accept that while it is far easier to program a computer to project on job creation, it is far more difficult to get the private sector to end its investment strike," Gomomo said.

He pointed to the fact that Cosatu was now being joined by

"strange bedfellows", such as Anglo American's Leshe Boyd and the South African Chamber of Business's Raymond Parsons, in calling for a reduction in interest rates. This vindicated the federation's contention that the current policy of high interest rates and the focus on low inflation at all costs would "choke the economy and create jobless growth", he said.



Left: President Nelson Mandela, in a red Congress of South African Trade Unions cap and T-shirt, at the opening day of Cosatu's annual congress in Kempton Park yesterday.



Right: Three of the delegates at the congress greet the President with chants of "ANC, ANC, ANC." PICS ANTONIO MUCHAVE

Cosatu, ANC agree on new Labour Bill

Sowetan

17/9/97

166

By Abdul Millazi

PRESIDENT Nelson Mandela confirmed yesterday that the African National Congress had reached consensus with the Congress of South African Trade Unions (Cosatu) on the Basic Conditions of Employment Bill. He said the legislation would be tabled before the current session of Parliament.

Mandela was speaking at Cosatu's sixth national congress at the World Trade Centre in Kempton Park on the East Rand.

"I would like to congratulate Sam Shilowa on his reasoning and his willingness to compromise," he said.

The President's announcement follows two days of confusion after business and Cosatu refuted claims by Labour Minister Mr. Tito Mboweni on Sunday that sufficient consensus had

been reached on the Bill.

Minutes after receiving a rousing welcome from the capacity crowd and doing a few moves of the famous Madiba jive, Mandela went straight for the jugular vein, criticising Cosatu's rejection of the restructuring of the fishing industry.

He warned that "the Government cannot abandon its transformation programme just to please workers in certain sectors."

This was one of the salvos fired by Mandela in his hard-hitting speech, probably meant to bring the ANC and Cosatu in line after recent conflict arising from differences over the Basic Conditions of Employment Bill.

The only partner in the tripartite alliance that was spared the rod by the ageing President was the South African Communist Party, whose delegation was led by its secretary general Mr. Charles Nkomo.

The ANC also took back for Finance Minister Mr. Trevor Manuel's declaration that the macro-economic strategy, known as Growth Employment and Redistribution (Gea) was not negotiable.

However, Mandela agreed with Cosatu that the alliance partners needed to stand together for the ANC to win the 1999 elections.

Underhand tactics

He said the organisation did not get a two-thirds majority because it did not "have the privilege to campaign inside the country" and had to contend with "underhand tactics from the National Party."

"Opposition parties are now campaigning about how strong the alliance is and are talking about the ANC wanting a one-party state."

They have short memories. They forget that for more than four decades they have had a one-party state," Mandela said.

Cosatu president Mr. John Gomo said, "All that is required is for us as an alliance to redefine our priorities, develop an agenda and programme to achieve those priorities and mobilise all progressive forces behind that programme in the same way we did against apartheid oppression and exploitation."

Gomo called for the dismissal of what he called "ineffective" ministers and some Members of Parliament (MPs). "As a movement we should ensure that our representatives at various levels of government and in Parliament who are ineffective are subject to recall and replaced by those who are committed to serve the cause of the liberation struggle," he said.

In its political resolutions for the national congress Cosatu had expressed concern about its former

members who were now MPs and were no longer sympathetic to workers.

This prompted the federation to review its decision to release its leadership to take up posts in government.

The latest highly placed trade union leader to join government was National Union of Metalworkers (Numsa) general secretary Mr. Enoch Godongwana. The National Union of Mineworkers (NUM) general secretary Mr. Kgalema Motlanthe is to join the ANC as its general secretary.

Former Cosatu general secretary Mr. Jay Naidoo was among the first to leave when he was appointed Minister Without Portfolio and later Minister of Broadcasting.

Gomo said "We will be less than frank if we deny that we have not functioned effectively as an alliance. Energy has been spent on highlighting and resolving differences."

● See page 12.

Star 18/9/97

Mboweni confident as labour bill goes ahead

(166)

Cape Town - Cabinet yesterday approved the Basic Conditions of Employment Bill, paving the way for the controversial legislation to be tabled in Parliament this year.

Labour Minister Tito Mboweni told the National Assembly afterwards that he was confident sufficient consensus had been reached between labour, Government and business on the bill's contents.

"The judgment of what constitutes sufficient consensus is my judgment - it's not Business SA's judgment, it's not anyone else's," he said in an interpellation debate.

"As far as business and labour are concerned, the processes that involved them at Nedlac (the National Economic Development and Labour Council) and the bilateral meetings - that process is finished now and the issues will be dealt with when this bill is before Parliament."

The labour portfolio committee and the assembly itself would have ample time to debate it, he said. In its present form the bill attempts to move closer to - but does not quite meet - labour's demands for a 40-hour working week, four months' paid maternity leave, and a guarantee that minimum conditions of employment cannot be varied downwards.

Democratic Party leader Tony Leon said Mboweni had told the world that sufficient consensus had been reached on the bill, yet Congress of SA Trade Unions president John Gomomo had said there was no consensus.

Business SA had said there was no consensus on at least five of its major issues of concern. Mboweni should tell Parliament what was correct.

Mboweni was effectively advising Parliament that the bill would go ahead "come hell or high water", Leon said.

He asked whether the social partnership which had been the centrepiece of the Labour Ministry was going to be destroyed in the process.

The bill should be called a best conditions, rather than basic conditions bill, as no other country at South Africa's stage of development offered a comparable minimum floor of conditions - Sapa

LABOUR

Still a twinkle in Tito's eye

Mboweni tries to finesse continuing objections from Cosatu and business to the Basic Conditions of Employment Bill. But will he be able to police the Bill? (166)

FM 19/9/97

Cosatu this week kicked off its sixth national congress in a buoyant mood. It welcomed the fact that Labour Minister Tito Mboweni had "at last" decided to abandon his cherished search for consensus among the "social partners" at Nedlac, and instead turn the Basic Conditions of Employment Bill over to parliament for a decision. Cosatu seems convinced that most MPs will back labour's demands over those of business.

That remains to be seen. Mboweni's latest version of the Bill — which he, but emphatically not business or labour, believes has "sufficient consensus" — certainly has the backing of the Cabinet. This makes it hard to see MPs radically changing it. Cosatu and Business SA both now intend to lobby the labour portfolio committee in Cape Town, having in effect rendered Nedlac an empty talk-shop on big issues.

Yet the Bill may well represent what labour analyst Gavin Brown calls the highwater mark of union-friendly labour law under the ANC. Emphasis is bound to shift to job creation, rather than job protection. The first sign of such a shift appears, arguably, in the Bill itself — specifically, in the increased power it gives the Minister to vary conditions. This amounts to exemptions (for a year) for new investors, small enterprises and companies on low profit margins.

But nobody should be too hard on Mboweni for deciding to push his Bill through parliament, after having earlier threatened to withdraw it in an attempt to knock heads together in Nedlac.

His options were either to table the Bill in parliament and risk its defeat, or to remove its contentious clauses (to be returned to) and put forward an anaemic version.

Mboweni's problem now is going to be implementing the Bill — especially in the small and medium business sector. Smaller and non-unionised companies are simply not going to enforce the higher standards, says labour consultant Duncan Innes.

"By pushing through a Bill, which does increase standards, the Minister sets himself a huge policing problem," Innes says. This could lead to the situation in which smaller employers tell their workers "either we employ you at the lower standard, or we retrench you." Most workers would probably hold on to what they've got.

Provisions such as an hour's reduction in the working week to 45 hours and the nonstatutory schedule for getting it down to 40 hours in three years did not present a major problem, however. For example, says Innes, labour and business are probably going to negotiate a

"virtuous circle" in the next few years, in which increased productivity and individual performance provide the basis of a shorter working week.

While it welcomed new formulations in certain areas of the Bill, Cosatu, like business, strongly denied there was consensus on "core" areas of maternity leave and pay, working hours, variation of job standards and child labour. It rejected "with contempt" suggestions that Cosatu had endorsed the current Bill.

The Bill provides for four months' unpaid maternity leave, Cosatu demands six months' paid. It also wants a 40-hour week, and believes the Minister's power to vary standards will mean varying them downwards.

Business reiterated its view that improved labour standards should not be at the expense of economic efficiency and job creation.

Much rhetoric may be expected from the Cosatu congress, whose theme is "Defend, consolidate and advance to social transformation." However, the labour federation is at a crossroads, its influence on the wane.

The congress has to make hard choices about the way forward — choices outlined by its recent September Commission report into the future of trade unions.

Moreover, aside from September's ritual recitation of a (reconstructed) socialist approach to the economy, it also puts forward a more creative alternative, consistent

with ideas for people's capitalism (*Current Affairs* August 29).

There are, as Innes points out, significant changes occurring in the nature of capitalism in SA. These are reflected in various developments such as the removal of exchange control, demutualisation, the freeing up of the economy in various areas and the rise of black business. The point is that some in the union movement — particularly those which have union investment companies and are becoming involved in issues of corporate governance, such as NUM, Sactwu, Fawu, Ppwawu, even Nehawu — want to be part of this trend.

The debate, which will no doubt feature strongly at Cosatu's congress, is over whether this amounts to being "co-opted" or increasing the bounds of union influence.

If Cosatu is to emerge rejuvenated and with a sense of purpose it must clearly opt for the latter view. It is all very well for Cosatu to adopt September's major recommendations on restructuring the organisation and strengthening its structures, but this in itself says nothing about what they're being strengthened for. ■



Mboweni outsmart opposition

Sowetan 19/9/97

Political analyst says conflict between labour and business not warranted

By Abdul Milazi

LABOUR Minister Mr Tito Mboweni's decision to table the Basic Conditions of Employment Bill before Cabinet despite protests from business and labour was a smart move, political analysts said yesterday

Political analyst Professor Tom Lodge said the almost year-long conflict between labour and business on four provisions of the Bill was not warranted as they would not adversely affect either party

Lodge said the Congress of South African Trade Unions (Cosatu) was merely using these provisions as "a hammer" to punish Government for the Growth Employment and Redistribution strategy (Gear)

While all eyes were on the proceedings at the World Trade Centre in Kempton Park, where Cosatu is holding its sixth national congress, Cabinet approved the Bill on Wednesday

This move by Mboweni has paved the way for the legislation to go before Parliament this year and for the extension

of statutory wage setting in the domestic and farm sectors for the first time

Mboweni said he believed sufficient consensus had been reached for the Bill to be passed into law

During the congress, Cosatu has conveniently avoided discussing its position on the Bill

Even when President Nelson Mandela announced on Tuesday that consensus had been reached between the federation and the African National Congress, there were no protests from the delegates

When Mandela praised Cosatu secretary-general Mr Sam Shilowa for his "reasoning and willingness to compromise", he was cheered by the congress

Lodge said Cosatu's alliance partner, the South African Communist Party (SACP) was also divided on the Bill "Alec Erwin for instance is opposed to the 40-hour week being mandatory"

"Very few developing countries can afford to have a 40-hour week, and Cosatu's demand on maternity leave does not exist anywhere in the world, not even in industrialised countries," said Lodge

Mandela 'explains statement to Cosatu'

Renée Grawitzky

PRÉSIDENT Nelson Mandela attempted yesterday to avert suspicion created at the Congress of SA Trade Union (Cosatu) national congress by his claim that consensus had been reached with labour on the Basic Conditions of Employment Bill

Shilowa read a message from Mandela to the congress which stated that he had gained an impression from media reports that consensus had been reached. Mandela said he had not obtained this information from Labour Minister Tito Mboweni and he was pleased that Cosatu had taken steps to clarify the situation.

A Cosatu delegate claimed this was a damage-control exercise by Mandela to retain good relations between labour and government.

Another delegate said some re-

BD 19/9/97 (16)
mained suspicious as to whether a deal had been struck or not. However, a source close to the process said the cabinet had decided in the light of Mboweni's report and recommendations that nothing more could be gained through negotiations and the bill should be tabled in Parliament.

At the opening of the congress Mandela congratulated Cosatu general secretary Sam Shilowa and Mboweni on reaching consensus. Cosatu president John Gomomo said he did not know who had informed Mandela, but it was not Cosatu.

Mandela's statement followed Mboweni's assertion that he believed sufficient consensus existed for the bill to be tabled. Cosatu and business rejected this. Mboweni clarified his position, saying that in his judgment, "not anybody else's", sufficient consensus had been reached.

Cosatu delegates have not discussed the bill or their reaction to the amended position approved by the cabinet. The amendments attempt to move closer to meeting some of Cosatu's concerns.

However, the National Council of Trade Unions and the Federation of Trade Unions of SA have endorsed it.

Sapa reports SA Communist Party acting chairman Blade Nzimande told the congress yesterday a broad, state-driven industrial strategy was needed to replace government's growth, employment and redistribution plan.

He said private capital could not be relied upon to revive the economy, and the state had to play a more proactive role. The strategy should identify industrial sectors for development and address basic needs and create jobs. "We should resist privatisation as a means of meeting basic needs."

Employment Bill sets stage for tussle between

At Cosatu's annual congress Sam Shilowa had to point out to President Mandela that there was no agreement between trade

By Adam Cooke

When discussions began in April 1996 on changing the way employers and employees relate in the workplace, many predicted it would become one of the defining battles of South Africa's new legislative agenda.

The Basic Conditions of Employment Bill has cut right to the heart of labour relations in South Africa, addressing the very deep-seated divisions between the interests of business and labour and changing the platform on which this coun-

try's economy was built.

The bill essentially brings together provisions from two existing laws - the Basic Conditions of Employment Act and the Wage Act - and regulates the leave, pay, working hours, overtime and age of employment. As such, it affects every single person in the market, from the domestic worker to the manager.

Apart from causing two national stayaways on June 2 and August 22, when thousands of workers rejected key points in the bill, it has also damaged the emerging co-operative relation-

ship between business, labour and the Government

In a rather embarrassing situation last week at Cosatu's annual congress, President Nelson Mandela was corrected by the grant federation's secretary-general, Sam Shilowa, for assuming that the parties had reached agreement over the bill.

Both Business South Africa and Cosatu have come out strongly this week in rejecting Labour Minister Tito Mboweni's assertion that there had been "sufficient consensus" on the bill.

The refutation by business and labour was the latest development in a process that began in February 1996 with the release of the Green Paper on Policy Proposals for a New Employment Standards Statute.

From the outset, when 11 meetings were held at Nedlac to explore the issues for a new bill in 1996, it became apparent that there were important differences. Business claimed that the bill would cause the collapse of many industries if labour became too expensive, while trade unions said the bill could perpetuate the kinds of

exploitation already evident in the work environment.

Of the draft bill released for discussion in April this year Mboweni said: "It indeed de-

Mboweni says there's consensus

mands of everybody the need to change step, to change work organisation, to change from an exploitative atmosphere to one which promotes social justice." In accordance with the law,

the Bill was then submitted to Nedlac, where negotiations reached an impasse in May after only four formal negotiating sessions between the Government, labour and business. Eventually Mboweni initiated bilateral talks in an attempt to iron out the remaining differences over the bill.

It is as a result of these meetings that Mboweni came out last week and said sufficient consensus had been reached. The bulk of the bill was and is acceptable to both parties, but the gap between labour and

business on crucial points remained unsolved. Business called for a maximum of a 45-hour working week, while labour wished it to be reduced to 40 hours over a five year period. The bill as it stands now, ready to go before Parliament having been amended by Mboweni in recent weeks, states that the goal should be a 40-hour week, but that differences should be addressed through collective bargaining in each sector.

The bill further states that an 18-month investigation should be carried out into the implementation of a 40-hour week on a national and sectoral basis. Against Cosatu's wishes, the age of employment remains at 15, which is in line with the school-leaving age set out in the South African Schools Act. Also against labour's demands, maternity leave will remain at four months, but will be reviewed after a report from the Ministerial Task Team. Business sources say the only option is to forgo the legislation this year if agreement is to be reached and to turn to international mediation

unions, Nedlac and the Government

labour, business
(166) / Saw 23/9/97

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(166)

Nedlac at risk if bill is tabled

Star 23/9/97

BY ADAM COOKE

South Africa's alliance between labour, business and the Government is under threat as the three parties refocus attention on the National Economic Development and Labour Council's ability to resolve differences.

The parties have thrown Nedlac's future into doubt after their unprecedented disagreements over the Basic Conditions of Employment Bill.

For the first time since Nedlac was established in February 1995, a minister will table a bill in Parliament without having reached consensus over its contents in Nedlac's chambers.

According to business, labour and Nedlac sources, the move by Labour Minister Tito Mboweni effectively bypasses the conflicts that emerged from Nedlac's consultative process.

Commentators say Mboweni, while not obliged to find consensus before tabling a bill in Parliament, could be setting a precedent that would effectively diminish social partnership.

Business South Africa negotiator Adrian du Plessis said, "Nedlac is an ideal worth protecting". Cosatu condemned rumours that Nedlac's power should be reduced, saying its role was to deepen democracy.

► Bill sets stage

Cosatu calls for tighter bill schedule

(166)
Reneé Grawitzky

BD 23/9/97
THE Congress of SA Trade Unions (Cosatu) yesterday called for the tightening up of the Basic Conditions of Employment Bill schedule providing for a procedure to achieve a 40-hour working week through collective bargaining or sectoral determinations.

Business SA members are considering, with some opposition, adopting an amended position on the bill and entering further negotiations with Labour Minister Tito Mboweni. Re-elected Cosatu general secretary Sam Shilowa said the schedule was acceptable but should be tightened up to capture and include sectoral minimum agreed

Workers who worked in excess of a 40-hour week and would otherwise have benefited from a phased-in reduction in working hours, should get a one-hour reduction

Shilowa said two years after the bill came into effect, it had to be agreed that a further reduction in hours would occur

He said workers would be informed that they should not rely on the schedule to achieve a reduction in hours but should embark on a combination of struggles to achieve this

Cosatu's position on variation has changed with Shilowa indicating that if workers agreed to vary conditions, they should not lose out overall. The clause should be scrapped if agreement could not be reached and the status quo remained with employers going the exemption route. Cosatu's position on four months' paid maternity leave remained unchanged while it still opposed averaging and a reduction in overtime and pay for Sunday work.

Shilowa said if agreement was reached with the ANC on this package, planned 24-hour strikes scheduled for when labour and business made their submissions in Parliament would be called off.

Shilowa highlighted a number of political resolutions adopted at the sixth national congress which ended on Friday and stressed the need for the building of accountability in government, the private sector and pension funds

In this vein, he lashed out at Reserve Bank governor Chris Stals and called for accountability of the institution. The media ensured that Stals was accountable to no-one. However, the Bank board had to be restructured to ensure it did not only include the private sector and Stals, he said

Last-minute deal by BSA members 'likely'

Reneé Grawitzky

BD 25/9/97 (166)

SOME members of Business SA (BSA) are considering backing a controversial trade-off aimed at achieving a last minute deal on the Basic Conditions of Employment Bill

BSA sources said this week the proposal — not official at this stage — envisaged scrapping the bill's "variation" provisions so that employers and unions in bargaining councils could not negotiate deals which allowed for the implementation of conditions less favourable than those laid down in the bill

In exchange, business would want the overtime pay rate to remain at time-and-a-third, rather than the time-and-a-half provided for in the bill

The backers of this view — who tended to be those whose industries used a great deal of overtime labour — argue that the variation model contained in the latest draft bill was more restrictive than previously proposed by government and did not go much further than the provisions in the current act

However, other sources said

the proposal was unlikely to be agreed to within BSA. Most saw more flexible labour law as essential for the economy.

Government and labour were also unlikely to consider the proposal. Government was committed to retaining the variation model. The Congress of SA Trade Unions (Cosatu), while opposed to the bill's variation clauses, said earlier this week in response to speculation on a possible trade-off that it would not consider a reduction in the overtime rates

Cosatu general secretary Sam Shilowa said "employers can go to hell on overtime and Sunday work"

He said if agreement could not be reached on the variation model, it should be dropped and the status quo, in terms of which the existing legislation provided for companies to apply for exemptions, retained

A source close to the process said it was likely that once the bill was debated in Parliament the parties would broker a compromise deal in the corridors, as was the case with the Labour Relations Act

New labour law forum created

René Grawitzky

BD 25/9/97

(166)

HUNDREDS of labour lawyers, trade unionists, industrial relations practitioners and academics have formed the SA Society for Labour Law to provide a forum for engagement on issues in pursuit of the practice of labour law.

Labour Court Judge President John Myburgh said yesterday the intention of the organisation, which would be open to a broad base of people, was to advance and promote the practice and understanding of labour law in the country.

Myburgh said in the light of the level of a skills shortage in SA, there was a real concern and need to train people in all aspects of labour law.

Labour law had become an important factor in SA and affected everyone from the state, as the largest employer, to the private sector and individual citizens. Hence the need, he said, for a forum where people could exchange ideas and views on the functioning of the law not only in relations to the Labour Relations Act, but the new Basic Conditions of Employment Bill and further legislation on employment equity and skills development.

National steering committee member André van Niekerk said education and training to those who serviced the profession would be an important function of the organisation.

Members would be able to attend, free of charge, workshops and other training ses-

sions around the country on all aspects of labour legislation.

Van Niekerk said the organisation, which is establishing strong regional structures, intended to represent the interests of labour lawyers and others in the field of labour law.

The Gauteng region would launch its structure on October 29 where senior members of the labour law fraternity would facilitate a debate on how the Labour Relations Act should be interpreted.

The promotion of ethical standards and integrity in the practice of labour law and the interaction between those involved in labour law and private and state-run dispute resolution agencies would also be pursued.

World Bank criticises labour policy

René Grawitzky

BD 25/9/97

(166)

GOVERNMENT'S labour market policies and the proposed employment bill have come under the spotlight of the International Monetary Fund (IMF) and World Bank who claim that such policies impede employment.

SA Institute of Race Relations CE John Kane-Berman in the October edition of *Fast Facts* said both institutions had questioned government's commitment to addressing

unemployment

The World Bank and the IMF believed the "lack of flexibility in the SA labour market is identified as a key flaw".

They argued the "flexible sector" was very small compared to those sectors covered by wage regulating measures in the form of wage determinations or bargaining council agreements.

The World Bank, critical of the Labour Relations Act provision providing for the extension of council agreements to non-parties, said the ex-

ension system was "probably a key reason for high unemployment".

It said trade unions in developing countries understood the need for flexibility and "no developing countries have an extension system".

Extending council agreements distorted wage levels and kept them above market levels, the World Bank said.

Ireland aids rural water supply

PRETORIA — Ireland pledged R7m on Tuesday to help upgrade water and sanitation services in SA's rural areas.

Signing an agreement to this effect in Pretoria with Mvula Trust, a nongovernmental body, Irish ambassador to SA Eamon Thathal said the money would be used in a three-year programme.

Mvula Trust said that the programme entailed expanding 10 model community water supply and sanitation projects which were located in Northern Province, Mpumalanga, Kwazulu-Natal and the Eastern Cape.

The Irish government has donated R50m for similar projects in SA since 1994. — Sapa.

Nedlac in for stormy weather

By Amrit Manga
Assistant Editor

Disagreement on Basic Conditions of Employment Bill damaged relations

A GREAT deal of scepticism greeted the inauguration of the National Economic Development and Labour Council (Nedlac) in February 1995.

Doubts about building a social partnership were expressed in many different ways. But a common concern featured throughout - will the tripartite marriage between Government, business and labour last?

In the face of scepticism, organised labour, in particular seemed confident Nedlac would survive. Congress of South African Trade Unions (Cosatu) president Mr John Gomomo, however, cautioned that the marriage would not be an easy one.

"You cannot bring together Jabu Xulu, earning R200 a week after working for 15 years, with a family of five to feed, and John Smith, the chief executive of a major conglomerate earning R20 000 a week, and expect that there will be a calm and easy process," he said.

Gomomo's illustration captured the very essence of the challenge Nedlac faced.

It highlighted a reality many optimists chose to underplay - namely the class divisions that characterised the social partnership between Government, labour and business that Nedlac hoped to build.

No one could therefore have expected that the relationships in Nedlac would be without heat. After all, this is one of major forums in which contending class forces would contest the redistribution of wealth. It is a contest that would at the best of times be robust and even conflictual.

Despite these difficult challenges, Nedlac's social partners were able to strike important deals. Among them were the Labour Relations Act, health and safety legislation for the mining industry, ratification of a series of International Labour Organisation (ILO) conventions and a conclusion of the social clause debate.

But these achievements have been overshadowed by the recent adversarialism generated during the Basic Conditions of Employment Bill (BCEB) battle, which has left Nedlac deeply scarred.

Caustic exchange

This week, at a crucial Nedlac management committee meeting, the adversarialism boiled over and manifested in the "most caustic exchanges yet seen in Nedlac's brief existence".

And according to one source, all evidence suggests that trust between the social partners has reached the proverbial "all-time low".

"The Basic Conditions of Employment Bill negotiations have left an indelible mark on Nedlac - it has taken a heavy toll," another said.

"At Monday's meeting it was difficult dealing with what are generally simple matters."

"Take the discussion around the Management of the Skills Development Bill negotiations process. We were stuck on very petty issues. And it had a lot to do with the lack of trust," the sources said.

For example, differences over whether the technical committee for the skills development bill negotiations should be made up of one or two representatives from each con-



Sowetan
26/9/97
(166)

Cosatu secretary-general Sam Shilowa... less than enthusiastic about calls for a review of the Nedlac Act.

stituency seemed insurmountable.

"Because of tensions, these differences got elevated to matters of principle," a delegate at the meeting said.

This lack of trust was also evident in the reaction to a proposal that Nedlac retain an external facilitator to help expedite the negotiations.

This, however, prompted strong reaction. The proposal was apparently criticised as amounting to a vote of no confidence in the Nedlac secretariat and was shot down as part of Government's agenda to review Nedlac as an institution.

Vote of no confidence

"It may seem to be a vote of no confidence - but that interpretation derives from a measure of distrust. It misses an important point and fails to appreciate the impact the proposal would have on enhancing the institution's ability to get the parties to find each other on policy differences," a source said.

Government's call for a review of the Nedlac Act has not met with Cosatu's enthusiastic approval.

In the federation's secretariat report to its recent sixth national congress, Cosatu secretary-general Mr Sam Shilowa says of those advocating a review of the Nedlac Act: "A lobby has been pushing for Nedlac's powers to be reduced on the basis that 'it undermines the sovereignty of Parliament'."

"In most instances this is backed by those who undermine the role of the alliance in policy formulation."

The tone of this response is highly charged and suggests the existence of covert agendas.

From the federation's point of view attempts to reduce Nedlac's powers are driven by a desire to "confine the masses to being mere spectators in the theatre of transformation and policy formulation."

This goes against its policy of wanting to deepen and enrich parliamentary democracy.

That may well be true. But Nedlac has not helped Government's delivery programmes. Part of this is a consequence of the obligation on Government to submit all laws with a socio-economic dimension to Nedlac before they are implemented.

This often hampers Parliament's work and delays implementation of essential programmes. And that does not help democracy.

The divide is huge and the search for consensus will not be easy.

Given this level of mistrust and adversarialism, the prognosis for progress on the job summit, a subject that touches some of the most sensitive points of divergence between labour, business and Government, looks bleak.

No doubt, questions related to job creation reach the very core of macro-economic, labour market and trade liberalisation policies.

And tensions these issues could generate will far exceed those evident during the BCEB.

Divided opinion on Government macro-economic strategy is just one measure of the potential conflict talks about job creation could generate.

Labour Department director-general Mr Siphon Pityana, who is also overall convener of Nedlac, concedes relations have taken a hard knock. "Unless something is done, the atmosphere will remain highly charged and it will make progress on a range of other policy matters at Nedlac difficult."

"The battle scars left by the BCEB negotiations are not going to go away that easily. Evidence suggests that adversarialism is not tapering off."

The opening exchanges around the skills development is indicative of the difficult journey we may have to undertake on these policy issues, says Pityana.

"It does pose a threat to the conduct of the parties in the build up to the job summit, and therefore the outcome of the process."

Review situation

"There is therefore a need to address the adversarialism. It is important not to allow the experience of the BCEB to affect future policy deliberations."

Question is - how does one clear the air? Pityana says the parties need "to pause and examine the way we dealt with the BCEB and find where we went wrong."

Cosatu seems committed to shifting away from the militant unionism that characterised the 1980s. In its September Commission report, the preference is clearly for a strategic engagement or social unionism.

Whether this finds expression in Nedlac remains contingent on the extent to which the parties succeed in building trust in the institution.

Most private medical facilities will not be defined as essential services

Renee Grawitzky

MOST private medical facilities, including clinics, which offer services also provided by the public sector will not be defined as essential services in terms of the Labour Relations Act, giving their employees the right to strike.

This has been determined by the essential services committee. Its chairman, Dhaya Pillay, said at the week-end heated debate had taken place on whether private emergency health services, nursing and private medical ser-

ices should be declared essential

The SA Blood Transfusion Services was an example of an essential private health service because it was the only provider of that service. A private sector health facility would be considered an essential service if it was the exclusive provider of services of a particular kind in a defined geographical area.

The committee was established in October last year in terms of the Labour Relations Act, under the auspices of the Commission for Conciliation, Mediation and Arbitration, to de-

termine which services should be defined as essential and be subject to special labour relations procedures

The act states that workers in essential services cannot resort to industrial action. Disputes must instead go to compulsory arbitration.

Services previously defined as essential included passenger transport, parks and recreation maintenance to the production of tomato sauce. However, private health services had never been seen as essential.

Pillay said new areas declared es-

essential included nursing homes regis-

tered in terms of the Welfare Act where service depended on care, the SA Blood Transfusion Services and publicly funded medical institutions. Others declared essential included sanitation, fire fighting, payment of social pensions and the provision of municipal security, health, traffic and policing.

Pillay said the debate on the definition of health services became heated as some unions, including the Democratic Nursing Organisation of SA, initially argued that all health ser-

ices — private and public — should be

essential. Unions taking the opposing view included the National Education, Health and Allied Workers' Union (Nehawu) and the Hospital Personnel Trade Union of SA. Nehawu argued that not all public health services were essential. The union was prepared to negotiate collective agreements on minimum services at private hospitals.

Pillay said the national and regional health departments strongly supported private health-care facilities being defined as essential.

Nedlac to finalise its report on labour bill

ET (BR) 2/10/97 (166)

FRANK NXUMALO

LABOUR CORRESPONDENT

Johannesburg — The management committee of the National Economic Development and Labour Council (Nedlac) meets this morning to finalise a report for parliament on the revised provisions of the controversial Basic Conditions of Employment Bill in terms of the Nedlac act

Sipho Pityana, the overall government convener at Nedlac and the department of labour director-general, said this was the last time the committee would discuss the bill as the process was "now political"

Pityana is at the forefront of the call for the tightening of the Nedlac process after the adversarial and protracted negotiation process on the bill

There is at least 80 percent broad consensus on the provisions of the revised bill, but there is so much acrimony over the rest of the provisions that Tito Mboweni, the labour minister, ironically declared

about a two weeks ago that there was "sufficient consensus" for the bill to be tabled in parliament during the current sitting

This followed efforts to resolve the impasse through bilateral talks and prompted Pityana to call for at least the tightening of the process, if not the scrapping of the institution

"I think we need to tighten the way the institution functions so that it does not handicap timeous delivery," he said

"We have a five-year programme which we must deliver. The behaviour of the parties has to be structured in such a way that it promotes a culture of social partnership and not adversarialism," Pityana said

"We need to create a culture in this country where we can

argue and differ without going for each other's throats"

Pityana predicted that the bill would not have an easy passage in parliament as some of its contents went to the core of labour relations in the country

"Having spent over 18 months on these matters, I certainly don't believe there are possibilities of agreement on some of these issues, even (in parliament)"

He expected labour and business to continue lobbying the parliamentary committees

Meanwhile, Pityana said the government would convene a presidential jobs summit, now provisionally scheduled for November, only if there was agree-

ment on a national strategy for job creation between the Nedlac partners

He said the summit had been moved from October because labour and business had not yet met a special ministerial task team from the labour, finance, trade and industry and agriculture departments appointed to look at

the issues to be covered by the jobs summit.

"The summit will not be a place where we negotiate, it will be a culmination of those negotiations. When Nedlac concludes an agreement on the job strategy, it (the ministerial task team) will advise the president of its decision. He will then convene a summit at the appropriate time," Pityana said

He would not be drawn into giving details of the government's strategy on employment creation or provisional targets

"In this process we do not want the parties to react to government's proposals but to come to the table with their own

"The targets will come out of the agreements, including clear indications of how we are to realise them," Pityana said



Sipho Pityana

Workers told to use arbitration channels

Strikers in essential services not protected

CT(BR)3/10/97(166) (166)

FRANK NXUMALO

LABOUR CORRESPONDENT

Johannesburg — Strikes in essential services would not be protected, as services designated as essential would be treated differently under labour law and disputes that arose would be resolved by an independent arbitrator, said Siphso Pityana, the labour director-general, yesterday

Pityana said it was still disturbing to see industrial action in vital services such as public health and police operations.

"It is crucial that workers in essential services respect the rule of law and use the arbitration channels open to them to resolve disputes," Pityana said

The Essential Services Committee said parties to an industrial dispute in essential services, including emergency medical care, nursing, water, sanitation and prisons, were encouraged to

negotiate "minimum levels of services" as an alternative to full-scale strikes

Dhaya Pillay, the committee's chairman, said neither workers nor employers who failed to comply would be protected by the new Labour Relations Act

She said such workers risked dismissal or liability for damages, or both

Pillay said the list of services designated as essential was the result of 11 hearings over four months. It enjoyed the support of interested parties such as business and labour

"We have had a great deal of support from the parties in most



Siphso Pityana

of the services we have investigated, which we believe augurs well for the future," Pillay said

"Clearly, the most important step after the publication of our designations will be for the parties to really commit themselves to honouring both the designations and their agreements. The public interest needs to be uppermost in all our minds."

Pityana said that although the right to strike was a central right and one that was recognised by the constitution, it was not absolute and had to be balanced against broader considerations regarding the effects of industrial action on the community and, in particular, health and safety considerations

Nedlac notes government's stance on employment bill

CT(BR 3/10/97)

(166)

FRANK NXUMALO

Johannesburg — The management committee of the National Economic Development and Labour Council (Nedlac) noted yesterday government's position to table the revised version of the Basic Conditions of Employment Bill within the remaining five weeks of the parliamentary sitting, said Siphos Pityana, the government overall convener at Nedlac and department of labour director-general.

Yesterday's meeting marked the end of a long and adversarial negotiation process going back to February last year with the launch of a Green Paper on basic

conditions of work.

"Government indicated we will be taking the matter to parliament and the (final) Nedlac report will be tabled (together) with the bill," Pityana said. "The Nedlac report will identify for parliament areas around which parties agreed, highlight areas (where) we have disagreement and .. spell out the process that was followed on deliberations."

Labour and business have indicated they would lobby their respective positions with the parliamentary portfolio committee on labour. Pityana said the parties "would be less restricted" this time during the parliamentary process

Right to strike is 'not absolute'

(102) (166)

sewelan 3/10/97

By Maxwell Pirkisi

LABOUR DIRECTOR-GENERAL Siphon Pityana said yesterday that workers' right to strike needed to be balanced against other rights which citizens enjoyed

Pityana announced in Johannesburg that the Essential Services Committee (ESC) had completed designating services that would be regarded as essential

Said Pityana "The right to strike is a central right and one recognised by the Constitution. But it is not an absolute right"

He said all workers in sectors which provided services designated as essential would be barred from, among other things, striking, and would be encouraged to follow other routes to address their grievances

The ESC was tasked with balancing the implications of deeming a service essential - the removal of the right to strike - with broader social considerations regarding the effects of industrial action on the community - in particular health and safety considerations

Pityana also said the ESC would

Employees providing essential services to be barred from striking

continue to operate, designating areas that may not have been considered, and dealing with other urgent matters

"First, the committee needs to make their designations easily available in a simple form

"And it needs to make it clear that services designated as essential will be treated differently under labour law, that strikes in essential services are not protected, and that labour disputes which arise must be resolved by an independent arbitrator," Pityana said

"Second, we must ensure that in practice there is compliance with this aspect of the law

Disturbing examples

"We still see disturbing examples of industrial action in essential services. It is crucial that workers in essential services respect the law and use the arbitration channels open to them to resolve disputes," he said

Pityana also said employers in

essential services sectors had an extraordinary responsibility to invest in cordial relationships with their employees

"The fact that services are deemed essential should not be used as an opportunity to trample on the rights of the affected workers. We are satisfied that the law provides sufficient protection against any possible abuses"

Some of the services designated as essential include municipal traffic services and policing, municipal health, municipal security, the supply and distribution of water, the security services of the Ministry of Water Affairs and Forestry, and the generation, transmission and distribution of power.

Other essential services include fire fighting, the payment of social pensioners, the services required for the functioning of courts, correctional services, and blood transfusion services provided by the South African Blood Transfusion Service

Strike curbs get mixed (166) reaction from the unions

Star 3/10/97 (166)

By ADAM COOKE

Government restrictions on the sectors which can legally strike met with mixed reaction yesterday as some unions objected to the findings of the Essential Services Committee, while others hailed the results as a victory for workers

Announcing the findings of the year-old committee yesterday, the Labour Department's director-general Spho Pityana said the right to strike had to be balanced against other rights which citizens enjoyed

"The right to strike is a central right, and one recognised by the constitution. But it is not an absolute right," said Pityana.

Included in the services designated as essential are traffic services; municipal health services including nursing and medical services in the private and public sec-

tor; fire fighting; correctional services; the generation, transmission and distribution of power; services required for the functioning of the courts and parts of the sanitation services.

A new addition to the essential category includes the South African Blood Transfusion Service.

While chairman of the ESC Dhaya Pillay said there had been consensus between the stakeholders on most of the areas designated essential services, Pityana warned that there were disturbing examples of industrial action in essential services such as health and police operations.

Police and Prisons Civil Rights Union assistant general-secretary Elliot Nxele said that, while the union was prepared to concede that certain police and prison functions were essential, many were not and should have been negotiated.

The right to strike 'is not absolute'

BD 3/10/97
Josey Ballenger

16b
The act defined the interruption of such services as endangering the life, personal safety, security or health of a community, committee chairman Dhava Pillay said

Effective immediately, those services gazetted in mid-September as essential are municipal traffic services, policing, health and security, the supply and distribution of water, security services by the water affairs and forestry department, power generation, transmission and distribution, firefighting, payment of social pensions, courts, correctional services, sanitation, and cer-

IN DECLARING industries essential services, government had to balance the constitutional right to strike against the effects of industrial action on the community, labour director-general Siphon Pityana said yesterday

Pityana stressed at a news briefing that the right to strike was "central" but not absolute.

A three-person committee formed last November by the Commission for Conciliation, Mediation and Arbitration has declared a number of services essential in terms of the

tain civilian activities in the defence department.

Public emergency health services, nursing and other medical and paramedical services — and their supporting services — will also be considered essential until March 31.

Public health providers had asked the committee to revisit their sector to identify which services would continue being essential from April next year, Pillay said

Private health services defined as essential were the SA Blood Transfusion Service, (for which the public sector does not provide a parallel), those funded by the public sector and

nursing homes registered in terms of the National Welfare Act of 1978.

Pillay pointed out that some services defined under the previous government as essential were no longer considered to be so, such as passenger transport, perishable foodstuffs, fuel, cemeteries, mortuaries and the production of tomato sauce. Neither private health services nor school teachers had ever been defined as essential.

Pillay said the committee's work had been done "with a level of consensus" from labour, and that one of its members was from the National Union of Mineworkers

Child labour law dispute

MTG 3-9-10/97

(16b)



Sechaba ka'Nkosi

Zodwa does not know her age but she looks about 16. She cannot read or write, and every morning she wakes up before dawn to get her one-year-old child ready and, by six, starts her duties at a small farm near Boksburg.

"If you are a few minutes late, the farmer forfeits your day's pay or sometimes more, so we try to be as punctual as possible," she explains.

For the next 12 hours Zodwa will be working on the fields. Like most other child labourers in South Africa, she knows no other life than the farms she claims to have been working on for eight years now.

"My mother stopped working after suffering a stroke many years ago. I had to work so that we could all survive. I would not say I am happy with my pay, but it is much better than what I used to earn before I came here," she says with a smile.

Zodwa's plight and that of thousands of fellow working children has

highlighted loopholes in the laws that are meant to protect children, and tensions between government and child-care activists on the definition of child labour. They say there is a contradiction between the Constitution, which sets a minimum voting age of 18 and implies that anyone younger is not adult, and the South African Schools Act and the proposed Basic Conditions of Employment Bill, which sets 15 as a minimum working age.

Thus, argues the Network Against Child Labour, leads to exploitation. Representative Thabo Mokoena says they are lobbying business, government and labour to agree on a common age and definition that will be suitable for all. "We want 18 to be accepted as a minimum. Child labour takes different forms in South Africa. In most instances children are forced into it by poverty. So the definition must include anything that affects the development of a child. If we can have that as a starting point, we believe a lot of children can be protected."

ing is expected to extend its recommendations to the International Labour Organisation next year.

Keneue Mosoang, a researcher at the Farmworkers' Research and Resource Project, says "In Europe children are prepared for the world from a very early age, and are more comfortable making their own decisions around 18. So if you accept the minimum age of 15, you are basically perpetuating the same system that apartheid tried and failed."

"You are saying to black children they are only good enough to be educated to primary school level so that they can become manual labourers like their parents. How do you address inequality and poverty that way?" asks Mosoang.

Pityana retorts that local children should not be treated differently from their counterparts in other countries. He says this will present more disadvantages for them. "While we understand the argument about children's development, we have to make sure that our children are also able to ply their skills in the job market at an early age if conditions prevent them from continuing their education."

There are no official statistics on the number of working children in South Africa. But Zodwa hopes that her child will not become one of them. "Although I want to take him to the highest possible level of education," she says, "there is no guarantee that he will not work as a child like I did. I did not choose it, it was foisted on me by poverty."



Hard labour Poverty forces children to work. PHOTO: SIDDIQUE DAVIDS

The Department of Labour agrees a minimum age of 18 would be ideal. But Director General Sipho Pityana says the contradiction between the laws is mainly based on material conditions in South Africa. Pityana argues that while the new Bill wants the minimum working age to be 15, it also seeks to provide strict protection for working children between 15 and 18. Says Pityana "We have to be careful not to create an environment which will leave our children out of school,

while they will not be able to find any means of survival if they drop out."

Local non-governmental organisations (NGOs) are planning to take the issue to a ministerial meeting on child labour in Oslo this month. The conference, organised by the Norwegian government, plans to identify strategies to combat child labour worldwide. Its key focus will be on "the most intolerable forms of child labour", such as slavery, prostitution and drug trafficking. This meet-

Labour laws 'cost 422 000 jobs'

BD 9/10/97

(166)

Louise Cook

SA HAD lost 422 000 jobs as a result of labour laws, SA Agricultural Union (SAAU) chief Chris du Toit told the organisation's annual congress in Pretoria last night.

Du Toit said the congress would reflect farmers' anger and frustration at government policies which they saw as hostile to farming and a threat to the economy.

In his presidential address at the opening ceremony last night, SAAU chief Chris du Toit hit out at labour laws — SA had lost 422 000 jobs as a result, he said — crime in the country, land reform and government's tariff and water policies.

"We can compete against any farmer anywhere in the world, but we cannot compete against governments," he said in a clear reference to production subsidies paid by the EU and US.

Du Toit said that owing to the significance of farming worldwide and the fact that in SA this sector's impact on the annual growth rate was nearly

50%, the portfolio of farm minister should be a separate one. "A minister for land affairs with agriculture stuck on as an added responsibility is simply another recipe for disaster.

"It is the duty and responsibility of the state to protect our agricultural sector against unreasonable imports from countries that subsidise farmers directly..."

On the issue of poverty and food security, Du Toit warned that the World Bank foresaw Africa as the only continent where poverty was expected to increase over the next 15 years. The so-called poor countries would house 75% of the world's population, he said.

In 30 years more than 66% of the world's population would live in cities, he said, with 2,5-billion more people needing to be fed.

"At the same time, our agricultural resource base is shrinking; the intention of government to erect 1-million houses a year over the next five years means that 10 340ha a year will be needed — more or less the size of 1,2 Sowetos a year."

Crucial phase for new labour law

BUSINESS REPORTER

ARL 9/10/97

(166)
The Basic Conditions of Employment Bill will be referred to the parliamentary portfolio committee on labour for perusal and ratification before the end of this week, the committee's chairperson Godfrey Olifant said

He said that the committee would sit early next week to discuss the processing of the bill

"We will be discussing the issue of public hearings, when they should be held and the finalisation of the bill itself," he said.

Observers have questioned whether the bill will

become law before the end of the year

Mr Olifant said it was possible that the bill could be passed into the statute books before Parliament goes into recess in five weeks' time

"My committee takes decisions and we are not afraid to do that," he said

Employment bill to go to Parliament today

Reneé Grawitzky

THE much contested Basic Conditions of Employment Bill will be tabled in Parliament today after Labour Minister Tito Mboweni decided that sufficient consensus had been reached with labour and business, despite them disputing this.

The Congress of SA Trade Unions (Cosatu) welcomed the tabling of the bill as it had called on Mboweni to do this since April.

Business SA (BSA) said "It remains our belief that the issue cannot be resolved only as a matter of political judgment but must also have regard to the financial and economic concerns of the parties."

Cosatu's assistant general secretary Zwelinzima Vavi said that if an alliance meeting did not take place to sort out disagreements before public hearings were held on the bill, Cosatu would strike on the days when labour and business presented their submissions on the bill.

Meanwhile, Mboweni met a BSA delegation yesterday to discuss stumbling blocks to a negotiated settlement on the Skills Development Bill which is

BD 10/10/97 (16b)
being discussed in the National Economic, Development and Labour Council this week. Nedlac has to complete negotiations by October 16.

Industry sources said the meeting was an attempt to clarify positions on the funding of training. Business was opposed to the centralised collection of a 1% to 1,5% levy on payroll to fund training and the establishment of sector education and training authorities.

Industry sources said there was agreement on large sections of the bill and the process was going well. Labour, the source said, in the main supported the bill but would have preferred the training levy to have been in the region of 4%.

Negotiations came to a halt on Wednesday when government and business negotiators could not find a solution to business's concerns, sources said. The parties agreed BSA negotiators should meet Mboweni.

Labour and business are concerned about the October 16 deadline. A labour source said "depending on how we conduct ourselves from now on we may not be able to finalise discussions by October 16 as it does not provide time for report-backs to members".

Crimes against children 'increase 108%'

Nomavenda Mathiane

THERE has been a 108% increase in the number of crimes committed against children under the age of 18 in SA since 1993.

Statistics released by the welfare department and the SA Police Service (SAPS) show that last year an average of 1 154 children were sexually abused, and 751 children were physically abused, each month.

A total of 1 106 cases of child neglect were reported last year, and of these 969 were physical neglect and 137 were emotional neglect.

This year 842 children were sexually abused and 1 679 new cases of

BD 10/10/97 (16b)
child abuse were reported to Child Welfare Societies in SA.

National Council for Child and Family Welfare consultant Ros Halkett said many people were ignorant about what to do in the event of suspected child abuse.

Bruises, scratches, cuts, scalds and burns on a child were indications of abuse, she said. An excessively dirty and unkempt child, skin infections, nappy rashes and poor hygiene could also mean abuse.

Halkett said if the abuse was obviously severe it should be reported to the SAPS's child protection unit. Suspected cases of abuse should be reported to a social worker.

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Work bill clears Nedlac

Labour legislation in Parliament

ARL 10/10/97 (166) (#32)

THABO MABASO
BUJUMBURA REPORTER

The Basic Conditions of Employment Bill finally made it to Parliament today when it was tabled after a long and bumpy passage through the National Economic, Development and Labour Council (Nedlac).

The employment bill has been the subject of heated debate between business and labour at Nedlac, with neither willing to compromise on their positions

The Congress of South African Trade Unions (Cosatu) has embarked on regional and national strikes and protest actions in its efforts to get business delegates to change their stance

The bill, unveiled by Labour Minister Tito Mboweni earlier this year, seeks to establish minimum conditions for unorganised workers

It proposes a 45-hour working week, four months' maternity leave and overtime which should be paid at one-and-a-half-

times an employee's normal wage

Cosatu's main demands have been a 40-hour week and six months' maternity leave, four of them fully paid. Business leaders have cried foul, saying labour costs would be increased

A Ministry of Labour press statement said the bill would be debated in the National Assembly in the week beginning on November 3. The National Council of Provinces (NCOP) would then discuss it between November 17 and 21

If there are no amendments to the bill from the NCOP, President Nelson Mandela will consider assenting to the bill," the statement said

Parliament's Portfolio Committee on Labour will meet next week to discuss the processing of the bill. The committee will also have to decide on dates for public hearings

Cosatu has threatened to embark on nationwide strikes on the dates business organisations and unions make their submissions

Cut in working week causes rumbles in ANC

Star 13/10/97 (166)

Communists and Cosatu say trimming back to 45 hours is not good enough – they want 40

POLITICAL STAFF
Cape Town

ANC members of Parliament appear set to be whipped into line to support legislation which cuts the length of most workers' weeks to 45 hours, but it faces bitter opposition from some opposition parties.

The SA Communist Party and Congress of SA Trade Unions, both alliance partners in Parliament with the ANC, will be subject to the ANC's party whip although they both oppose some of the legislation's content.

But the Democratic Party and National Party are both gearing up to challenge the measure on the grounds that it will be counter-productive to economic growth.

The SACP and Cosatu want the working week reduced to 40 hours but are unlikely to articulate these positions in public when the measure is debated in the labour portfolio committee this week.

Members of the ANC alliance, which includes members of Parliament drawn from Cosatu and the SACP, will have to vote on the bill as a bloc.

This is in spite of opposition from labour unions within the National Economic and Labour Council, the negotiating forum on labour matters

where business, unions and the Government are represented

This was confirmed by SACP national chairman Dr Blade Nzimande yesterday. He emphasised that policy decisions were taken "primarily" by the ANC caucus, and that the alliance partners were obliged to fall in line.

The Basic Conditions of Employment Bill, which provides the ground rules for employer/employee relations, is to be debated in the labour portfolio committee this week. It will apply to all employees and employers except members of the National Defence Force and National Intelligence Agency, the South African Secret Service, and unpaid volunteers working for an organisation with a charitable purpose.

The ANC caucus has already agreed to pass the bill in its present form, ANC sources indicated at the weekend.

Labour director-general Siphosiso Pityana and the department's director of minimum standards, Lisa Seftel, will brief the portfolio committee on the bill tomorrow.

There will be a debate on the bill in the National Assembly in the first week of November, followed by the National Council of Provinces in the third week of next month.

ANC to muscle Labour Bill through Parliament

(166)

et 13/10/97

AFRICAN National Congress MPs appear set to be whipped into line to support legislation which cuts the length of most workers' weeks to 45 hours, but it faces bitter opposition from some parties.

The SA Communist Party and Congress of SA Trade Unions — both alliance partners of the ANC — will be subject to the ANC's party whip, although they both oppose some of the legislation, but the Democratic Party and National Party are both gearing up to challenge the measure on the grounds that it will be counterproductive to economic growth.

The SACP and Cosatu want the working week reduced to 40 hours but are unlikely to articulate this position in public when the measure is debated in the Labour Portfolio Committee this week.

The ANC alliance — which includes MPs drawn from Cosatu and the SACP — will have to vote on the bill as a block.

This is in spite of opposition from labour unions within the National Economic and Labour Council, the negotiating forum on labour matters where business,

unions and government are represented.

This was confirmed by national chairperson of the SACP Dr Blade Nzimande yesterday. He emphasised that policy decisions were taken "primarily" by the ANC caucus and the alliance partners were obliged to fall in line.

Responding to weekend media suggestions that the SACP, in particular, held separate caucuses before attending ANC caucuses, Nzimande emphatically denied this. "We do not operate in that way. We will be guided by the caucus position — there is no SACP caucus."

The Basic Conditions of Employment Bill, which provides the ground rules for employer-employee relations, is to be debated in the portfolio committee this week.

It will apply to all employees and employers except members of the National Defence Force and National Intelligence Agency, the South African Secret Service and unpaid volunteers working for an organisation with a charitable purpose.

The ANC caucus had already agreed to pass the bill in its present form, ANC sources indicated at the weekend.

Labour director-general Mr Siphosiso Pityana and the department's director of minimum standards, Ms Lisa Seftel, will brief the portfolio committee tomorrow on the bill. There will be a debate on the bill in the first week of November in the National Assembly, followed by the National Council of Provinces in the third week of next month.

According to Labour Ministry spokesperson Ms Estelle Randall, the minister believes there is "sufficient" consensus on the bill.

Nzimande said that despite outstanding disagreements, it was important that the bill had come to Parliament before it went into its December recess as the bill would improve the position of workers.

He said business would be unfairly advantaged if the bill — which has been the subject of discussion between government, business and labour for more than a year — was not enacted this year. — Political Staff

Employment bill tabled at last ⁽¹⁶⁶⁾

FRANK NXUMALO

LABOUR CORRESPONDENT

Johannesburg — The revised version of the Basic Conditions of Employment Bill, which proposes, among other things, a schedule to reach the goal of a statutory 40-hour week through collective bargaining and sectoral determinations, was tabled in parliament on Friday

The proposed basic conditions of work will apply to all workers except members of the defence force, national intelligence services and volunteers, and it will not cover public servants until 18 months after its promulgation

The bill reduces the working week of farm and mine labourers to 45 hours, 12 months after it becomes law, and the working hours of security guards will be cut down from 60 hours a week to 45 over 30 months

However, the Congress of South African Trade Unions (Cosatu) wants a 40-hour week phased in over a period of not more than five years and has



MISTER T *Tito Mboweni has declared there's 'sufficient consensus'*

PHOTO JOHN WOODROOF

planned two nationwide 24-hour strikes on the days that business and labour submit their Nedlac reports on the bill to parliament. Cosatu is also demanding six months maternity leave, of which at least four should be paid, and 16 years of age as the threshold for

children to join the labour market.

The revised bill has met Cosatu's demand for double pay for Sunday work

Business has claimed that the provisions of the bill would increase unit labour costs by at least 20 percent. It is strongly opposed to a statutory 40-hour week and is uncomfortable with ministerial discretion over main agreements

Despite the acrimony over the core provisions, Tito Mboweni, the labour minister, declared last month that there was "sufficient consensus" for it to be tabled

Sipho Pityana, the director-general of the department of labour, and Lisa Seftel, the department's director of minimum standards, are scheduled to address the parliamentary portfolio committee on labour tomorrow

The department said the bill would be debated in the national assembly from November 3 to 6, and in the national council of provinces from November 17 to 21.

□ Inside Parliament, Page 22

Push to get labour law on the books

ANC gears up to get communists and unions into line

ANC
MEMBERS
OF PARLIAMENT
AND
UNIONS
GEAR UP TO GET
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AND UNIONS
INTO LINE

ANC Members of Parliament appear set to be whipped into line to support legislation which cuts the length of most workers' weeks to 45 hours - but it faces bitter opposition from some parties.

The SA Communist Party and Congress of SA Trade Unions - both alliance partners in parliament with the ANC - will be subject to the ANC's party whip, although they both oppose some of the bill's content.

But the Democratic Party and National Party are both gearing up to challenge the measure on the grounds that it will be counterproductive to economic growth.

The SACP and Cosatu want the working week reduced to 40 hours but are unlikely to articulate these positions in public when the measure is debated in the labour portfolio committee this week.

Members of the ANC alliance - which includes MPs drawn from Cosatu and the SACP - will have to vote on the bill as a block. This is in spite of opposition from labour unions within the National Economic and Labour Council (Nedlac).

This was confirmed by national chairperson of the SACP Blade Nzimande, yesterday. He emphasised that policy decisions were taken "primarily" by the ANC caucus and the alliance partners were obligated to fall in line.

Responding to weekend media suggestions that the SACP, in particular, holds separate caucuses before attending ANC caucus, Dr Nzimande was emphatic that the alliance partners did not behave in this way. "We do not operate in that way. We will be guided by the caucus position there is no SACP caucus."

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Labour director-general Sipho Putyana and the department's director of minimum standards, Lisa Sefel, will brief the portfolio committee tomorrow on the bill.

There will be a debate on the bill in the first week of next month in the national assembly, followed by the national council of provinces in the third week of next month.

Labour Ministry spokesperson Estelle Randall said Labour Minister Tito Mboweni believed there was sufficient consensus on the bill.

Dr Nzimande said that in spite of outstanding disagreements, it was important that the bill had come to Parliament before the December recess as it would improve the position of workers. He said business would be unfairly advantaged if the bill - which has been the subject of discussion between government, business and labour for more than a year - was not enacted this year.

ANC MEMBERS OF PARLIAMENT AND UNIONS GEAR UP TO GET COMMUNISTS AND UNIONS INTO LINE

Cosatu presses on with employment bill strikes

FRANK NXUMALO

LABOUR CORRESPONDENT

Johannesburg — Cosatu said yesterday it still intended pressing ahead with two 24-hour nationwide strikes on October 27 and 28 when the labour federation and business make presentations to parliament over the controversial Basic Conditions of Employment Bill.

The labour federation said it welcomed the tabling of the bill in parliament, but it had no intention of "rewarding employ-

ers for their delaying tactics. "The strikes will go ahead unless an agreement is reached within the alliance (between Cosatu, the ANC and the Communist Party), in which case the Cosatu executive will review its positions".

Sam Shillowa, Cosatu's general secretary, said the labour federation had approached its alliance partners to seek consensus on areas of disagreement in time to table the necessary amendments. He said labour's submission to the national assembly would include "giving teeth and substance" to the proposed goal of a statutory 40-hour week and other issues, including raising the minimum working age from 15 to 16 years and six months' maternity leave, at least four of which should be fully paid.

Lynette Dexton reports from Cape Town that the labour department made a strong appeal yesterday to the parliamentary portfolio committee on labour to pass the employment bill before the end of the parliamentary session in November.

Sipho Pityana, the labour director-general, said every effort had been made to consult all parties on the bill and, although some major areas of disagreement remained, the government was convinced that the bill was long overdue.

He said: "We are fighting no illusion that the road ahead remains bumpy," he said. Some committee members expressed concern that only six hours had been set aside for the public hearings, but chairman Godfrey Oliphant said more time

could be allocated if needed. After the hearings, the committee is scheduled to meet on October 31 and November 3 to complete its report and possible amendments to the bill. Pityana said that apart from amendments over specific working conditions, four major objections had been raised about the bill. These were that it would raise labour costs, impede job creation, was inappropriate for South Africa's level of development and would adversely affect small business.

CT(MA) 15/10/97 (166)

Sowetan
15/10/97

Casutu gearing for a ⁽¹⁶⁶⁾ general strike - Shilowa

THE Congress of SA Trade Unions is preparing for a general strike on October 27 and 28, when public hearings on the Basic Conditions of Employment Bill will be held in Parliament, Cosatu general-secretary Sam Shilowa said yesterday.

Shilowa said the strike would go ahead unless an agreement was reached within the African National Congress-Cosatu-SA Communist Party alliance, in which case the Cosatu executive would review its position.

He said Cosatu, which has more than 1,7 million members, had also asked the ANC and the SACP for an urgent meeting to resolve differences that still existed between the alliance partners.

"We hope that the meeting will take place as a matter of urgency in order to reach an agreement in time to table the necessary amendments (to the Bill)," said Shilowa.

"Cosatu is confident the ANC will not only defend the current gains as contained in the Bill, but also improve it in areas where there are flaws, in order to deal with the structural deficiencies of South Africa's labour market which we inherited from apartheid colonialism," Shilowa said.

He had deployed a team in Cape Town, led by himself, to monitor and engage Members of Parliament and the alliance in discussions on the Bill. The team would be "systematically advancing (Cosatu's) proposals".

Shilowa made the announcement after he and Cosatu vice-president Connie September, together with a group of MPs, attended a briefing on the Bill yesterday morning, by Labour Department director-general Siphoswe Pityana and the department's director of minimum standards, Lisa Seftel.

The Bill, tabled in Parliament last week by Labour Minister Tito Mboweni, calls for, among other things, a reduction in the working week to 40 hours within five years, as well as an increase in overtime rates from time-and-a-third to time-and-a-half.

Cosatu wants the schedule for the 40-hour working week to be re-worked, and opposes provisions which allow for working conditions to be varied by agreement and for Sunday work. It also wants the minimum working age to be raised from 15 to 16 - *Sapa*.

Call for committee to approve employment bill

Jacob Dlamini

BD 15/10/97

CAPE TOWN — Labour director-general Siphso Pityana yesterday called on Parliament's labour committee to approve the Basic Conditions of Employment Bill. Pityana said the urgency behind the draft legislation required that it be passed by the National Assembly before the end of the year.

Pityana said negotiations over the bill had strained the social partnership between labour and business.

He said weighty differences between labour and business remained, but government felt sufficient consensus had been reached to allow for the bill to be introduced in Parliament.

The bill was designed to address problems such as the inadequate protection of vulnerable workers, child labour and excessive working hours.

But labour and business disagreed on some key provisions such as the reduction of working hours, paid maternity leave, Sunday work and powers granted to the minister.

Pityana dismissed concerns that

(160) the bill would raise labour costs if it became law. He said there was a need to consider the social and health costs to the country of failure by government to improve working conditions.

He said improved conditions would lead to a rise in productivity and a possible reduction in labour costs. Any cost increases would be a once-off occurrence, Pityana said.

Lisa Seftel, minimum standards director in the labour department, said an earnings ceiling likely to be between R40 000 and R70 000 would be put in place once the bill was introduced.

However, it would be inappropriate to legislate for a 40-hour working week as there was fierce opposition from employers and workers who would not be compensated, Seftel said.

Reneé Grawitzky reports the Congress of SA Trade Unions (Cosatu) has threatened to continue with its planned 24-hour national strikes on October 27 and 28 when labour and business make submissions on the bill to the national assembly's labour portfolio committee.

Last ditch attempt to change bill

Cosatu to lobby MPs, threatens national strikes

(166) ~~(166)~~
PRG 15/10/97

THABO MABASO
BUSINESS REPORTER

The Congress of South African Trade Unions (Cosatu) has embarked on an intense programme of lobbying and mass action that will culminate in two nationwide strikes, in a last ditch attempt to change disputed clauses in the Basic Conditions of Employment Bill.

The strikes are set for October 27 and 28, the days that the parliamentary portfolio committee on labour has set aside to hear submissions

from the public on the bill.

Cosatu secretary general Sam Shilowa said yesterday the union federation would be meeting the African National Congress (ANC) as soon as possible to discuss their differences over the bill.

Mr Shilowa issued a statement shortly after the employment bill was tabled before the labour committee for discussion.

The strikes would only be suspended if an agreement was reached on the areas of difference with the ANC, he said.

Outstanding points of difference

ment has proposed a 45-hour working week, promising to review the matter in three years and again two years later.

Mr Shilowa said Cosatu had deployed a team in Cape Town, led by himself, to monitor the progress of the bill and to lobby MPs.

Industrial relations practitioner Gavin Brown said that he believed that Cosatu had jumped on the lobbying bandwagon a bit late.

Attempts to get the ANC, which has endorsed the bill, to change its mind were a futile exercise.

'I do not think demonstrations

will make any difference in this regard. The Minister of Labour, Tito Mboweni, has done his lobbying in Parliament and he is assured that the bill will be passed into law in its present form," Mr Brown said.

"It is too late for Cosatu to now want to start lobbying the ANC - they had two years to do that."

The bill will be debated in the National Assembly on November 3 and 6, before going before the National Council of Provinces for further discussion from November 17 to 21. If it is not held up during this process, it will become law.

'Attempts to get the ANC, which has endorsed the bill, to change its mind, are a futile exercise'

include Cosatu's demands for a 40-hour working week, six months maternity leave, of which four would be paid, and a minimum working age of 16 years. The Govern-

AFRICAN BUSINESS

Low rainfall to hit coffee production

(163)

MANOAH ESIPIU

Nairobi — Kenya's coffee output would fall to 74,915 tons in 1997-98 from 82,902 tons in 1996-97, mainly because of poor weather, the Coffee Board of Kenya said yesterday.

Data issued by the board showed Kenya was forecast to produce 74,858 tons of arabica

and 57 tons of robusta in 1997-98, compared with 82,889 tons of arabica and 33 tons of robusta in the previous year.

Last week, Schluter Trading, the Swiss-based company, said Kenyan output might fall by as much as 30 percent because of low rainfall.

In its first estimate for the 1997-98 season, the board said

poor weather had hit production in the traditional key growing areas of central, eastern and western Kenya.

But production was forecast to rise in the Rift Valley province, where expansion in the past two years had begun to bear fruit.

"We have done everything in our ability to improve pro-

duction, but the weather has not been favourable and the weather is beyond us," a coffee board spokesman said.

But production will rise in the Rift Valley, where stems planted in the last two years are expected to start flowering in 1997-98," the coffee board spokesman said.

"The Rift Valley has grown

plenty of Ruiru 11 in the past two years, and 2,500 stems of Ruiru 11 are planted per hectare, compared to 1,250 stems of other (coffee) varieties," the coffee board spokesman said.

Coffee is ranked third, behind tourism and tea, as Kenya's leading hard currency earner — Reuter

Cosatu's strike 'extremely negative'

Johannesburg - Business associations have criticised a national strike planned by unions for October 27 and 28 over new labour laws, saying it would damage the economy unnecessarily.

-The Congress of South

ARG 16/10/97

African Trade Unions plans the strike to coincide with two days of public hearings in Parliament over the planned Conditions of Employment Bill

"This is extremely counter-productive and negative," said Hans Smith, president of Business South

(166) (102)
Africa "It penalises business but business can do nothing - the bill is in the parliamentary process."

Employers say the bill, which would cut the working week to 45 hours, raise overtime pay and entrench other worker rights, would stifle job creation - Reuters

Bill will change work relations

(166) sawetan 16/10/97

The 40-hour week is seen as a victory for Cosatu if new legislation is passed

By Rafiq Rohan
Political Correspondent

THE BASIC CONDITIONS of Employment Bill is before Parliament, and, if implemented in its current form, will lead to a complete overhaul of relationships and conditions in the workplace

Since the Bill was introduced in Parliament, reception from the public has represented extreme opposing views

On the one hand, general comments to the Portfolio Committee on Labour say the Bill is "long awaited", "greatly supported" and "saluted". On the other, views range from "the Bill is pathetic", "socialistic" and "inflexible"

This week the Department of Labour included a user-friendly guide to what the Bill's implementation will mean for labour

The detailed Bill basically seeks to resolve problems currently existing in the labour market. These include inadequate protection of vulnerable workers, poverty in employment, child labour, excessive working hours and gender discrimination

Existing law

The new Bill is much better than the existing law, the Department argues, because it extends protection to lowly-paid and vulnerable workers, improves rights for all workers, modernises the law and has more effective enforcement mechanisms

The Bill's first chapter focuses on its application and covers all workers except those in the army, intelligence services and unpaid volunteers working for charity

But the Workers International Vanguard League which made a sub-

mission on behalf of the South African National Defence Force, criticised the Bill for being "weak"

"The right to basic standards of living should be extended to all, not restricted to certain sectors. How can the upholders of a better life for all not have the same rights themselves?" the league asks

The Bill also includes the public service and, the department says, provides a floor of rights which can be improved through individual or collective agreement

Perhaps the Bill's most contentious segment is in chapter two, which aims to achieve a 40-hour week for workers

This chapter is the Bill's core, which focuses on areas such as working hours, overtime, rest periods, Sunday work, night work and public holidays

The chapter's aim, the department says, is to reduce long working hours, especially the long overtime hours certain sectors of the workforce endure

It wants to regularise working hours, citing the examples of manufacturing workers who average 48.5 hours a week, truck drivers who work up to 57 hours and spend 146 hours away from home a week, and the more than one-third of manufacturing workers who work more than eight hours regular overtime each week



Labour Minister Tito Mboweni's Basic Conditions of Employment Bill will lead to a complete overhaul of relationships and conditions in the workplace.

The Bill argues that long hours cause fatigue, declining productivity and accidents

It believes more flexible arrangements will improve the use of capital equipment and will also take into account family responsibilities

The department says that while it is not appropriate to legislate a 40-hour week, this should, however, be the goal

Of submissions received, the Defence Secretariat praises the fact that the reduced working hours could be compacted into a four-day working week

"This may be favourable for working women with families, although it may require them to leave home early and return late," it said

The Democratic Party's Tony Leon

is outraged at this prospect, saying it will raise the costs of employers. It will "cost jobs now and in the future", he said

The 40-hour working week is seen as a victory for the Congress of South African Trade Unions (Cosatu), which has long campaigned for this type of legislation

Cosatu said "The introduction of a 40-hour working week is a historical demand of working people throughout the world"

"Combined with a curb on overtime, it can also assist in increasing employment levels as it will boost workers' demands"

Explaining the new principles

relating to overtime in the Bill, the department says the overtime rate will be increased from time-and-a-third to time-and-a-half, with the option to take additional time off

Job creation

Currently South African workers work long overtime. The new principle will lead to improved efficiency and job creation, said the department

In arranging working time the Bill allows for a compressed working week where an employee could work a longer working day in exchange for a day off – the working hours could be compressed into four days of the week

The Bill also specifies that an employer has to give an employee "at least one continuous hour" meal time

off if that employee works continuously for five hours. If the employee works during the meal hour, the employee must be paid

In addition to the meal break, the Bill compels employers to ensure employees have daily rest periods of at least 12 hours and weekly rest periods of at least 36 hours

The Bill insists on double pay for work on Sundays. "An employer must pay an employee who works on Sunday at double the employee's wage for each hour worked," the Bill states, but this is only in circumstances where the employee does not ordinarily work on a Sunday

If there is an agreement, the employee can be compensated by additional time off for Sunday work

If the employee is expected to work at night – from 6pm to 6am – it must be by agreement, the employee must be compensated by an allowance or reduction of hours and transport must be available to and from work

On public holidays employers can expect employees to work only if there is an agreement and the principle of double pay on public holidays applies. Annual leave in the Bill is calculated at 21 consecutive days and employers cannot pay employees in exchange for annual leave

The six-week sick leave over a three-year cycle still applies but – also an area of contention – maternity leave is now pegged at least four consecutive months. This sees an increase of maternity leave from the old 12 weeks

An employee is not allowed to work for six weeks after the child's birth and, in the case of a miscarriage, the mother can have at least six weeks leave

While the Bill does not address the issue of maternity pay, the Unemployment Insurance Act provides for 45 percent of the salary for six months

Another contentious area is dealt with in chapter six, which deals with the employment of children. The Bill makes it illegal for a person to employ a child younger than 15 years of age

Labour minister's powers questioned

BD 16/10/99 (166)

René Grawitzky

THE Basic Conditions of Employment Bill would centralise power in the hands of the labour minister, thereby stripping the Wage Board of any power or initiative to investigate and recommend wages and conditions of employment in vulnerable sectors

That is the view of two Cape Town University economics and sociology lecturers arguing in the latest edition of the SA Labour Bulletin that the proposals in the bill make it easy for the minister to allow minimum wages to fall.

Organisations involved in minimum wage fixing for vulnerable workers should be concerned about such moves, said the lecturers, Nicol Natrass and Jeremy Seekings. They said centralising power in the hands of the minister was not necessarily problematic if he was genuinely committed to ensuring acceptable minimum wages. However, institutions of governance should not be built on

the assumption that the "labour minister would remain a labour-friendly bastion within the state".

The bill placed all discretionary power in the hands of a minister and provided no institutional safeguards for minimum wage setting.

The marginalisation of the board was contrary to the recommendations of the Labour Market Commission report and the International Labour Organisation review of the SA labour market, Natrass and Seekings said.

The original employment standards green paper acknowledged the need to re-examine the role and function of the board, renamed the Employment Standards Commission. However, Natrass and Seekings called for it to be revitalised, reconstituted with powers to investigate conditions of employment if directed by the minister or requested by employer and employee organisations representing a significant number in a sector.

The paper proposed further

that the minister could publish a wage determination in line with the commission's recommendations. If he did not agree with the recommendations, he had to give reasons.

In terms of the bill, the minister can authorise "a person in the public service" to conduct an investigation and if an employer or employee body requests an investigation, the minister will either authorise a person in the public service or the commission to do the investigation.

On completion of the investigation the minister may choose whether or not to publish a determination.

Natrass and Seekings said the bill ensured the minister decided "what to investigate, who will investigate it and what he or she should do about it". The Employment Conditions Commission had been turned into a "futile rubber stamp" and a "very different toothless animal when compared to the (green paper) proposals".

Change 'needed in workplace'

(166) (166)

THE pressure of globalisation will force labour and management to develop a co-operative relationship, Professor Clive Thompson of UCT said at the launch of the Western Cape chapter of the SA Society for Labour Law yesterday.

Employers would have to invest in staff training if they wanted to improve productivity and compete with companies abroad.

"It is important that labour law practitioners . . . come up to speed with key labour market issues to support work force change"

If companies wanted to compete in the global market they had to give workers more responsibility by investing in skills training.

Thompson criticised trade unions for allowing their opposition to workplace forums to form an obstacle to labour-management co-operation.

"These forums were intended to serve complementary functions to collective bargaining. They are there to improve workplace efficiency and look at more productive work methods, not to challenge the unions" — Staff Writer

CTA 17/10/97

Public hearings scheduled to discuss controversial bill

27 20/10/97

(166)

LAST week, Minister of Labour Tito Mboveni tabled the Basic Conditions of Employment Bill in Parliament, following months of negotiations in the National Economic Development and Labour Council (Nedlac).

The parliamentary portfolio committee for labour then held a briefing the following day on the contents of the controversial bill where public hearings were scheduled for October 27 and 28.

At issue is a dispute around a number of key issues that affect workers' lives — child labour (the union wants 16 years as the minimum age, government and business 15 years), maternity leave (the union wants a guarantee that four out of the six months are paid), opposition to Sunday work, prohibition on overtime, opposition to downward variation of employment conditions, a 40-hour working week, and limitations on the minister's ability to amend the law.

But the tabling of the bill also reveals aspects of the politics within the ANC-led alliance on a number of levels. These include the fluidity of the relationship between the alliance partners, how shifts in the government's macro-economic strategy have forced Cosatu to adapt its approach to accessing and shaping policy processes within the state and lobbying the ANC-controlled government, and how Cosatu views Nedlac — the corporatist structure set up to facilitate disputes between the state labour and business.

In shifting the battle to Parliament in Cape Town, one could ask whether the union should

take it for granted that they still have the support of ANC parliamentarians. What is the union's relationship with the 20-odd MPs "seconded" by Cosatu to Parliament at a 1993 special congress on an ANC election ticket?

On the subject of the test of loyalties within the ANC prompted by the bill, why does Cosatu need to lobby the ANC at this late stage?

If it had a formal alliance with the governing party, surely it should have intervened at the initial stages of the policy-making process — in the ministries, the ANC NEC — before the bill reached the chambers of Nedlac? If Nedlac serves as a consensus forum between the state, labour and business — where disputes about proposed legislation and labour policy are settled — then what is the role of Parliament?

So how does Cosatu view the process leading up to public hearings in Parliament and a new act? The public view within the union movement is that Nedlac assists Parliament in identifying and developing different issues.

Parliament is sovereign and has the right to change everything. But, in reality, it is an ANC-dominated Parliament with a highly disciplined caucus and extensive influence by its organisational structures. Furthermore, the federation engages the state and business in smaller bilateral, both in Nedlac and other forums, well before debates shift to Parliament.

Cosatu is realistic about what to expect from the parliamentary process. There is no hope that the IFP, NP or DP would actively support the Cosatu programme — despite the fact that the first two parties represent large numbers of regionally-based black workers.

The union movement's main hope is, therefore, with the ANC and Cosatu is not sure whether the ANC will go for a progressive or regressive response.

Experience with Gear — the federation recently put its opposition to the policy on record at its annual conference — has taught the union not to rely on the ANC or even individual ANC members with union sympathies.

The "Cosatu MPs" are in a difficult position since they are subject to ANC caucus positions, have no direct link to the unions, and have developed policy positions over the last three years that differ from their erstwhile colleagues' and worker constituency.

"We must present our case so that both those on the inside and outside of Parliament are convinced by it. If, however, we could rely on Cosatu people we might as well have gone to Jay Nardoo and said 'Jay, it's payback time,'" explained Shulowa.

Practically, the federation has deployed a team in Cape Town led by Shulowa to monitor as well as engage with MPs and the alliance on the issues in dispute.

Further, the union will ensure that proposals that have been advanced by the ANC in bilateral, and in correspondence between Cosatu and the minister — but have not been captured or included in the latest bill — are incorporated as agreed between the alliance partners.

Cosatu is also preparing for a 24-hour general strike on the two days of the public hearings. The strike will go ahead unless an agreement is reached within the alliance, in which case the Cosatu executive will review its position.

Draft Bill to phase out racially-biased benefits

(166) Sowetan 20/11/97

Sowetan Correspondent

DRAFT legislation which provides for the phasing out of racially-based housing subsidy schemes initiated by the former National Party government has been tabled in Parliament

The Housing Bill will regulate the phasing out of subsidies granted by the white, coloured and Indian communities by the tri-cameral Parliament. The Bill, which will be debated in Parliament today, provides for a single, national system of housing subsidies.

Chairman of Parliament's Housing Committee Mr Titus Mafolo said the Bill would remove elements of discrimination in Government's housing subsidy policy and bring the financing of housing provision in line with the Constitution.

Mafolo said the racially-defined benefits would be phased out a year after the Bill became law.

The Bill also provides for the scrapping of the R9,7 billion local government housing debt and the introduction of a social compact between the Government, business and communities to expedite housing delivery.

Once approved, the Bill will also enable Government to prohibit shoddy workmanship in the construction of houses through the establishment of minimum national standards. The standards would include the minimum size of house that could be built for a family.

Provision has also been made for a National Housing Code with guidelines for minimum standards determined by the Minister of Housing.

Last-minute attempt at employment bill deal

BS 21110/97

(166)

Reneé Grawitzky

THE Congress of SA Trade Unions (Cosatu) and the African National Congress (ANC) will meet tonight to try and broker a last-minute deal on the Basic Condition of Employment Bill ahead of public hearings being held by Parliament's labour committee on Monday, Cosatu said yesterday.

The meeting comes in the wake of the bill being tabled in Parliament last week and Cosatu's warning that national strikes would continue if an agreement was not reached within the alliance.

Cosatu general secretary Sam Shilowa said last week the federation welcomed Labour Minister Tito Mboweni's decision to finally agree to "our view that negotiations in the National Economic Development and Labour Council (Nedlac) are not endless" and that the bill should be tabled in Parliament.

Shilowa said Cosatu was preparing for a 24-hour general strike on Monday and Tuesday, coinciding with labour

and business submitting their positions to the committee. The strike, he said "will go ahead unless an agreement is reached within the alliance".

This is despite speculation at last month's Cosatu congress that an informal deal had been reached between Mboweni and Cosatu leaders. This was reinforced when President Nelson Mandela congratulated Shilowa and Mboweni on reaching consensus. He later explained that he had believed sufficient consensus had been reached from media reports and that Mboweni had not informed him to the contrary.

At the same time negotiations continue tomorrow within Nedlac on the Skills Development Bill with labour and business expected to respond to a revised government position to overcome opposition to the centralised collection of a 1%-1,5% training levy.

Business opposed the centralised collection of the levy and subsequent mechanism to distribute the funds. It is understood that government has proposed the collection of levies at an industry as opposed to national level.

Mboweni: Affirmative action bill will cause dust

(166)

ET 22/10/97 (166)

THE Labour Department was discussing a final draft of affirmative action legislation that would be presented to the cabinet soon, Labour Minister Mr Tito Mboweni said yesterday.

The Employment Equity Bill was aimed at getting rid of the industrial colour bar, he told the parliamentary labour portfolio committee.

"That bill is going to cause a significant amount of dust in the air."

Those who had benefited from apartheid labour legislation would complain that affirmative action was being imposed upon them.

Mboweni said plans for a presidential job summit were going ahead, but it was uncertain whether the preparatory work could be completed in time for it to be held this month, as planned.

It was important that interested parties reached consensus on the key issues, or else the gathering would be a "quarrelling summit" rather than a jobs summit.

Mboweni repeated his view that there was enough consensus between labour and business on the Basic Conditions of Employment Bill for it to have been tabled in Parliament last month.

Those issues on which there was disagreement could be revisited, and there was plenty of time to do this.

"We have to proceed to govern the country; whatever the parties say, they agree on the bulk of the content of the bill."

Mboweni said planned strike action by the Congress of South African Trade Unions to press home

its demands for the bill was "not the end of the world".

On the National Skills Development Bill, which will impose a compulsory training levy on companies, Mboweni said difficulties were being experienced with working out payment systems for training.

The bill was being finalised and consensus could be reached, he said.

Next year legislation would be considered to extend bargaining council agreements, which would "take the concerns of interested parties on board".

Mboweni defended the National Economic Development and Labour Council (Nedlac). Differences were bound to arise within Nedlac, he said. "These differences are not a sign that Nedlac is about to collapse."

However, the relationship between Nedlac and Parliament needed to be addressed. — Sapa

SS

Establishing rules that avoid confrontation

LABOUR legislation sets the rules of the game, and unless business and labour can agree on the regulatory framework, confrontation is inevitable

This, says Gerrie Bezuidenhout, Sacob's labour affairs and social policy director, is at the heart of recent disputes over new labour laws, particularly the Basic Conditions of Employment Bill

These disputes have meant another busy year for Bezuidenhout and labour affairs manager Janet Dickman, both as business representatives at the National Economic Development and Labour Council (Nedlac) and as Sacob officials to whom businesses turn for information

and guidance.

The Basic Conditions of Employment Bill has been tabled in parliament after more than a year of dispute between business and labour on issues such as weekly working hours and the rate of overtime pay

The dispute led to mass action, stayaways and strikes as unions sought to reinforce their demands, and Sacob was involved in advising business chambers on the issue as well as answering queries from individual businesses confused about the Nedlac process and the legality of union action

Business does not dispute the need for minimum labour standards such as working

hours, overtime rates, sick leave and a ban on child labour

However, Bezuidenhout says, conflicting principles are involved. Business is arguing for minimum standards which can be improved by negotiation at plant or industry level, while labour is insisting on best standards which leave little room for collective bargaining

"Business is not monolithic," says Dickman. "There are many different kinds of business, we are saying the law should lay down minimum conditions and each business or sector should be able to negotiate conditions that suit them"

Another dispute is looming over government's intention to

impose a training levy on business

Once again, Bezuidenhout says, business does not oppose the principle. It is in favour of skills training on which it already spends a great deal of money. The problem comes with a central fund administering a compulsory levy that businesses involved in training cannot be sure of getting back

"That becomes just another tax. We would consider a training levy, but it must be cost-effective and non-bureaucratic. We do not want government to tell business how it must train its workers, business must decide for itself how that money is to be spent"

Happy strike is off, but concerned over 'deal'

Business in two minds on Cosatu

ET (BR) 23/10/97

(166) ()

MIRANDA STRYDOM

Johannesburg — Cosatu's decision to call off a two-day strike planned for next week was welcomed by business organisations yesterday, but concern was expressed about a deal struck between the labour federation and the ruling ANC.

The South African Chamber of Business (Sacob) said it was "relieved that Cosatu has decided to call off the strike, because it would have been damaging to the economy, and it would send out the wrong messages to investors."

"But we believe that some deal has been struck with Cosatu and its alliance, which is worrying for business, but we cannot comment on that deal because we do not know what it is," said Janet Dickman, Sacob's labour and social policies manager.

Cosatu said yesterday progress had been made within the tripartite alliance (between Cosatu, the ANC and the SACP), on the Basic Conditions of Employment Bill and based on that progress it would suspend the strike.

Cosatu would not reveal the contents of the agreement reached with the ANC, in negotiations that lasted into late Tuesday, but sources said it could involve a trade-off between Cosatu's demands for a 40-hour

working week and six months' paid maternity leave.

It is believed that the government has agreed to a faster phasing in of the 40-hour working week in return for Cosatu dropping its demand for six months' paid maternity leave.

Dickman said the fact that the labour federation had decided to call off the strike meant that it "got what it wanted or enough of what it wanted."

Meanwhile, the Afrikaanse Handelsinstituut hailed Cosatu's announcement "In the interest of the country, we are pleased that Cosatu has decided not to go ahead with the strike. At this stage that is all we can say," said Manuel Da Silva, AHI's marketing and communications director.

Business South Africa would not comment. It said it had not yet looked at the matter.

Cosatu had been planning the two-day strike for Monday and Tuesday to support the federation's demands for amendments to the bill.

The government, labour and business have been at odds for most of the year over the bill. But Tito Mboweni, the labour minister, has said the legislation would go through parliament before the end of the current session, whether or not the parties agreed.

Cosatu calls off strike

THE Congress of South African Trade Unions (Cosatu) yesterday called off plans to stage a 48-hour national strike next week after an all-night meeting in Cape Town with its tripartite alliance partners *sowetan*

The tripartite delegations were led by Deputy President Thabo Mbeki for the African National Congress, Cosatu president Mr John Gomomo and South African Communist Party chairman

Mr Blade Nzimande (152) (bb)

Cosatu deputy general secretary Mr Zwelinzima Vavi told a press conference that details of the agreements would be announced after the Cosatu executive has been briefed tomorrow

"We are confirming that substantial progress was registered at this meeting. Most of the gaps that existed between the alliance on core issues have been closed," Vavi said - Sapa

23/10/97

Strike called off after deal reached on employment bill

(166)

By ADAM COOKE

After nearly two years of negotiations, the ANC and its tripartite alliance partners - Cosatu and the South African Communist Party - have reached several breakthrough compromises on the Basic Conditions of Employment Bill.

The agreement, hammered out at an all-night alliance meeting in Cape Town on Tuesday, yesterday prompted Cosatu to postpone a general strike which was due to go ahead on Monday and Tuesday.

Details of the pact are being kept under wraps until they have been ratified by the three partners' respective executives. But the Staff reliably understands that one of the areas of compromise was a move by the Government to agree to Cosatu's demand for a 40-hour week to be phased in over the next five years. Sources also said Cosatu had agreed to compromise on its demand for six

months' paid maternity leave and would now accept four months, as set out in the bill tabled in Parliament recently by Labour Minister Tito Mboweni.

The agreement opens the way for Parliament to pass the bill into law during the current session, which ends in the middle of next month.

There were fears that the lengthy delays in reaching agreement at the National Economic Development and Labour Council would postpone the bill's passage through Parliament until next year at the earliest.

Speaking in Johannesburg yesterday, Cosatu deputy general secretary Zwelenzima Vavi said that while he would not disclose the details of the agreement, "many trade-offs" had been made.

A technical committee comprising himself and Mboweni would meet today to sort out the finer details.

He added that if all the differences had been ironed out by the end of next month, the threatened strike would be called off in its entirety.

The core issues of dispute relate to Cosatu's demand for a 40-hour working week, while business has been insistent on a 45-hour week.

Aside from the maternity leave issue, Cosatu has also demanded a minimum employment threshold of 16 years of age, while the Government has been offering a threshold of 15

Star 23/10/97

Cosatu calls off planned strikes after agreement on employment bill

Reneé Grawitzky

THE Congress of SA Trade Unions (Cosatu), the African National Congress and the SA Communist Party reached a provisional agreement yesterday on the Basic Conditions of Employment Bill, and Cosatu called off strikes planned for next week.

Tripartite alliance sources described the agreement as an important development for alliance unity.

"Substantial progress" in resolving differences between the partners provided Cosatu with the opportunity to call off 24-hour strikes planned for Monday and Tuesday, which some labour sources believed had been the subject of an earlier discussion.

After the 12-hour meeting, committee members agreed to disclose possible areas of agreement ahead of a Cosatu executive meeting on Friday, which will have to approve the deal.

However, sources at the meeting said proposed changes were more a matter of semantics than substance. One said it was an exercise in political manoeuvring so the parties could present a united front during the parliamentary process starting on Monday.

Another said the challenge had been to find the "right language" to enable both labour and government to get out of corners they had painted themselves into during negotiations.

A key area was the possibility of downward variation of basic conditions by agreement between employers and employees. The meeting had to ensure the necessity to allow for variation does not erode the basic floor of minimum

working conditions, said a source. Despite a lack of clarity as to whether proposed changes to wording will be more than symbolic, business is likely to be concerned about the ramifications of further changes.

Cosatu deputy general secretary Zwelinzima Vavi said there had been six months to sort out Cosatu had to ensure the variation clause was tightened up to protect workers from uncontrolled flexibility.

A source said there could be movement on the wording to the schedule to achieve a 40-hour week.

A labour source said it was decided informally last week that there had been no real attempt to mobilise. Most affiliates had not even begun organising.

Vavi said a technical committee consisting of himself and Labour Minister Tito Mboweni, would discuss day areas agreed in principle. Further alliance meetings could be held if outstanding issues could not be resolved.

ED 23/10/97

CCMA rules against labour department

BD 23/10/97

Reneé Grawitzky

THE labour department was at the receiving end of its Labour Relations Act recently when the Commission for Conciliation, Mediation and Arbitration (CCMA) ruled it committed an unfair labour practice by not promoting two employees ~~(157)~~ (166)

Two members of the Industrial Court declared a dispute against the department after they had on three occasions applied for assistant director positions which were advertised three times in more than three years. They had been filling the positions in an acting capacity.

They argued that the previous incumbents were ranked as assistant directors and the department had committed an unfair labour practice by not appointing them to the positions.

CCMA commissioner Larry Shear agreed with the employer's argument that the law and custom did not provide a right to claim extra remuneration or promotion if a person performed the functions of someone more senior. However, consideration had to be given to whether it was fair to expect persons to perform a function beyond their rank and status without recognition.

He ordered the department to appoint the two applicants into the positions of assistant directors, backdated to February 18.

Shear said yesterday the law recognised that managerial prerogative was necessary for the efficient operation of a business, but it could not be unbridled and had to be subject to fairness.

Disability rights for workers 'inadequate'

(166) (247) CT(BR)24/10/97

FRANÇOISE BOTHA

Johannesburg — The extension and use of disability benefits would need to go through a period of transformation if people with disabilities were to be treated equitably in terms of the law, Peter Strasheim, a labour and pensions lawyer, said yesterday.

Speaking at a Swiss Re seminar, Strasheim said none of South Africa's laws had adequately addressed disability rights.

"The green paper on the future employment and occupational equity law has not addressed the complexities associated with the rights, interests and employee benefits of people with disabilities in the workplace. Furthermore, no guidelines have been provided for accommodation or a code of good practice," he said.

"What is more surprising is that a number of labour lawyers with an interest in this area have offered their services free of charge, but have received no response. It would be an opportunity for all stakeholders to work together."

Labour practice had seen the use by employers of disability benefits to facilitate downsizing their organisations, with termination expenses being passed on to the disability benefit provider. Use by employers of em-

ployee benefits for downsizing purposes was an unfair labour practice.

Meanwhile, employees had also maximised their severance benefits by abusing disability claims. "Over the past five years disability claims have increased by over 300 percent."

"It is estimated that nationwide, 40 percent to 50 percent of the claims are either false or magnified. This translates into billions of rands a year," he said.

"The tragedy is that disability claims escalate beyond the provisions and either premiums increase or benefits reduce," said Strasheim.

Strasheim said that, in terms of the green paper on employment equity, South Africa was likely to follow the provisions of the American Disabilities Act.

This allowed for job applicants to be able to perform essential functions with or without reasonable accommodations. It included a requirement that any reasonable change or adjustment to the work or working environment be allowed to provide the disabled person with full and equal benefits and privileges.

"Unfortunately, what we are seeing in South Africa at the moment is that disabled employees are being excluded from pension and medical aid schemes."

Cosatu a lone voice on Bill

Sechaba ka'Nkosi

Intense pressure from the government and less enthusiasm for mass action are believed to be behind the Congress of South African Trade Unions's (Cosatu) sudden change of attitude on the Basic Conditions of Employment Bill this week, and a possible settlement before the Bill is tabled in Parliament next week.

Cosatu's woes began when the National Council of Trade Unions (Nactu) snubbed its two-day strike set for next week and instead threw its weight behind the government's revised proposal, leaving Cosatu the only opposing voice among union federations.

This, coupled with the Ministry of Labour's determination to go ahead with the Bill, whether Cosatu supported it or not, is said to have convinced Cosatu that the Bill in its current form was the best the federation could expect.

Labour department officials have been angered by what they perceive to be Cosatu's arrogant stance, and business's apparent shift to the right. "We have arrested a privilege for

millions of unorganised and vulnerable workers because of a lack of maturity among social partners. At the end of the day the government will be judged not on the number of hours it spends negotiating with interested parties, but on the extent to which it delivers to those previously excluded from benefits such as labour provisions," says a departmental official.

One attitude adopted by the department was that the Bill would be implemented in phases as soon as it was promulgated. Unresolved areas would be channelled to a proposed Employment Conditions Commission and would take months or even years to settle.

Cosatu deputy general secretary Zwelinzima Vavi confirmed that the federation has agreed to the partial implementation of the Bill. Vavi said there were areas where there is complete agreement within the alliance, and others where the parties agreed to differ.

"There were trade-offs between the parties on most issues and we did make compromises ourselves. For us the important thing is to have the Bill passed by Parliament this year and promulgated by May or June next year.



Final touches: Tito Mboweni.
PHOTOGRAPH: SIDDIQUE DAVIDS

Unresolved areas will be negotiated at a different forum."

Director General Sipho Pityana had earlier told the *Mail & Guardian* the department was worried that delaying the implementation of the Bill would set a bad precedent on two other outstanding Bills — the Skills Development and Employment Equity Bills. Pityana says if the National Economic Development and Labour Council (Nedlac) process fails to reach consensus on issues, social partners would think there is no way forward.

"In the final analysis the Nedlac Act states that if parties can't reach a settlement on a certain issue, each of them reserves a right to pursue its programme through other avenues. In this regard the government had no choice but to go ahead with parliamentary processes," Pityana says the final law would not be easy

to implement as a whole because the relevant institutions have not yet been set up to enhance the Bill.

The road to a near settlement began in earnest this week when an urgent meeting of the alliance secretariat was convened, followed by a meeting of Cosatu affiliate general secretaries to derive a strategy for the federation, and the Cape Town meeting on Tuesday this week where the settlement was brokered by Deputy President Thabo Mbeki. The meeting agreed on a two-person task team comprising Vavi and Minister of Labour Tito Mboweni to put the final touches to outstanding matters.

Mbeki's diplomacy is believed to have prevailed over the ministry's determination to go ahead with or without Cosatu, and the federation's insistence that unless its demands were met as a package, there would be no settlement. Although the details of the meeting are being kept close to the African National Congress's and Cosatu's chest, the results are the federation's suspension of its two-day general strike next week and willingness to accept trade-offs on core issues. The latest deal is believed to centre mainly on hours and variations — two of the four outstanding demands Cosatu had earlier insisted it would not back down on.

On variations, Vavi hinted at a possible shift from a non-negotiable stance to conditional variations. "We are sufficiently happy with the progress so far and we believe that the Bill can now be tabled with our full blessing."

Business South Africa representative Adri du Plessis says business is watching the developments with keen interest. However, until they are fully briefed on the deal, they are not in a position to weigh it up.

"We are not aware of any developments so far. However, we look forward with keen interest to the terms of the agreement."

MTF 24-30/10/97

(166)

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Employment bill amended to accommodate 45-hour working week

Reneé Grawitzky

CAPE TOWN — The Basic Conditions of Employment Bill has been further amended to accommodate a "deal" struck between alliance partners last week which stipulates that a 45-hour week will become a core right that cannot be varied at all.

Thus falls short of labour's demand for the enactment of a 40-hour week, but it could prevent employers, depending on the wording, from reaching agreement with workers to work more

than a 45-hour week.

The deal was a last-minute initiative to ensure "sufficient consensus" between the Congress of SA Trade Unions (Cosatu) and government ahead of public hearings on the bill today in the labour portfolio committee.

On Friday Cosatu's special executive broadly endorsed the deal, reached in principle during a 12-hour alliance meeting on Tuesday night led by Deputy President Thabo Mbeki. Labour Minister Tito Mboweni briefly outlined changes to Business

SA at the weekend. Business would not comment officially on the effect of the changes, but some sections of business believed the majority of amendments were symbolic.

Sources said the changes business might challenge related to tightening up the schedule to the bill that outlined a process to effect a progressive reduction in working hours to a 40-hour week and adding an additional core right of a 45-hour week which could not be increased at all.

The schedule states that an employ-

ment conditions commission may investigate reducing working hours in a particular sector. Within 18 months of the promulgation of the act the labour department, in consultation with the commission, must complete an investigation into ways to reduce working hours to 40. The department will then monitor and review progress on reducing hours, and publish a report. This report now will have to be published two years after completion of the initial investigation instead of three.

In line with Cosatu's demand that

all sectoral minimums below 45 hours be incorporated into the bill, Mboweni has agreed to publish in the schedule the working hours of each sector. An employer source said this would then become a sectoral minimum that could not be exceeded.

The list of core rights that cannot be eroded has been extended to cover a 45-hour week. A source said it was unclear whether employers could apply for exemptions. The parties agreed the minister would have discretion to decide on payment of maternity leave.

Keeping abreast of new legislation

166

A YEAR of major legislation affecting business has increased the demands on Sacob's parliamentary information centre as companies seek information about legislation that could affect them.

The office has also expanded its provincial focus, monitoring provincial laws and legislative processes because of the growing importance to

business of the new provincial system.

And, in common with the rest of Sacob's activities, the details are available on the Internet, and reports can be sent to subscribers by e-mail, eliminating postal delays.

Peter Duminy, director of the centre, says that after the 1994 election businessmen made a lot of use of the centre

to help them get to know the new politicians and government officials and the workings of the new parliament.

Now that business is broadly familiar with the system, politicians and party policies, inquiries tend to focus more on specific pieces of legislation and the potential for business input during the parliamentary process.

This year, those measures have included a revamp of insurance legislation, a new bill on housing, the controversial health bills affecting drug companies and pharmacists, and proposed new rules for the liquor industry.

New labour legislation on basic conditions of employment has been tabled after many delays.

The centre was established as a listening post for business, but it has become more than that.

It is an information centre, with details not just of legislation but capable of producing contact lists of central and provincial government members and officials, with phone and fax numbers as well as potted biographies.

It is a contact point, helping to set up appointments for businessmen, while frequent meetings between a business liaison group and parliamentarians and senior government officials ensure a two-way flow of information.

However, the centre's main function remains the dissemination of business-related information about the parliamentary process.

It publishes weekly and monthly newsletters, a quarterly political assessment by Professor Lawrence Schlemmer, and a monthly provincial roundup, giving information about each of the nine provinces.

The new provincial function ties in with Sacob's plan to assist provincial business chambers, particularly those in the nine provincial capitals.

Sanlam seconded a senior manager, Theuns Botha, to the Sacob office for 18 months to help get the provincial service going.

The "second house" in parliament, formerly the Senate, is now the National Council of the Provinces, and all legislation deemed to affect provinces must be referred to the provincial legislatures.

"This gives stakeholders a new opportunity to express their opinion on legislation, and we can alert them to the issues on which they might want to lobby at provincial level," says Duminy.

BD 27/10/97

Strong responses to labour bill

CT(BR) 28/10/97 (1bb)

LYNDA LOXTON

PARLIAMENTARY CORRESPONDENT

Cape Town — The controversial Basic Conditions of Employment Bill aroused strong — and sharply contradictory — responses from a wide range of South Africans when it came before parliament yesterday

At the start of its two-day hearing on the bill, the parliamentary labour committee was warned by business groups that the bill would have serious negative consequences for small businesses and could lead to job losses. At the same time, church groups and unions expressed grave misgivings about the effect attempts to introduce greater flexibility in the labour market would have on non-unionised workers

But all were uncertain about what the bill actually contained as they did not know the details

of the deal brokered last week between the government and Cosatu, the union federation. The agreement resulted in the planned two-day strike to coincide with the hearings being called off at the last minute

Representatives of several business organisations said the bill would increase labour costs, make many small businesses uncompetitive and force many to close down or to shed jobs in favour of greater mechanisation.

According to submissions handed in, particularly hard-hit would be clothing firms, private nursing homes and even fruit farmers

"In all enterprises, labour costs are a major cost element, but in a small business it is a dominant component, often playing a determining role in whether the business will survive or not," said Gerrie Bezuidenhout, Sacob's director of

labour affairs and social policy.

"Employers will simply find ways of getting by with fewer employees and the bill may therefore be counterproductive," he said.

While Sacob could support four months' maternity leave, union demands for this to be upped to six months on full pay could not be supported as it would place an unacceptable burden on small businesses, many of which employ mainly women

Laws on overtime pay for Sunday work, even when employees normally worked on a Sunday, were outdated and would merely add to the cost of doing business. So would plans to increase the notice period from two weeks to one month and the introduction of one week's severance pay for every year of service

Church groups, however, were strongly against any form of Sunday work at all, whether or not overtime was paid



TOUGH TALKS Siphon Pityana, the director-general of labour, and Philip Krawitz, the outgoing president of Sacob PHOTO: ANDREW BROWN

Inquiry set for new bill

CHRISTO VOLSCHEK
CAPE EDITOR

Cape Town — The departments of labour, trade and industry would launch a special investigation into the effect of the Basic Conditions of Employment Bill on small businesses as soon as it was passed by parliament and before it was promulgated, Siphon Pityana, the director-general of labour, said yesterday.

He said small businesses could be given special treatment under the new law should the investigation find that it would be onerous and cost-increasing to small businesses.

He made the statement in the

wake of the submission by the South African Chamber of Business (Sacob) at the public hearings of the parliamentary standing committee on labour, when Sacob said the bill would stifle small business development and as such contradicted the growth, employment and redistribution (Gear) plan.

At the public hearings, Sacob formally put on record that it could not support the bill in its form at present, since it went "way beyond the provision of basic conditions".

At the national convention of Sacob, held in Somerset-West, Pityana later denied that the bill contradicted Gear.

(166) ET (PK) 28/10/97

Cosatu explains strike deal

FRANK NXUMALO
LABOUR CORRESPONDENT

Johannesburg — Cosatu said yesterday it was able to call off its two-day strike, scheduled for yesterday and today, because the deal struck with government over the Basic Conditions of Employment Bill was good enough for the labour federation to support the parliamentary process.

Zwelinzima Vavi, Cosatu deputy-general secretary, said Cosatu and its alliance partners, the ANC and the SA Communist Party, had agreed on a consolidated schedule towards the goal of a statutory 40-hour working week, six months' maternity leave, at least four of which should be paid, and bargaining chamber variations

of working conditions. There was no agreement on the minimum age of employment and the issue of an extra two months' maternity leave.

Vavi said that most of the labour federation's membership already enjoyed working conditions provided for in the proposed labour legislation and slammed media speculation that disagreements over the bill "were the last nail in the alliance's coffin".

"The real people who will benefit from the bill are farm workers, domestic workers and other vulnerable workers who are not organised into strong unions," he said.

Tito Mboweni, the labour minister, conceded that Business South Africa and Nafcoc had reservations about the bill.

Labour calls for proof policies will raise costs

BD 28/10/97 (166)

Linda Ensor

CAPE TOWN — Labour director-general Siphon Pityana challenged business yesterday to provide concrete proof that new labour legislation would add to labour costs

He was responding to questions at the SA Chamber of Business (Sacob) annual convention in Somerset West where several speakers criticised government's labour policies as flying in the face of world trends and undermining SA's competitiveness in a globalised world economy.

Labour consultant Andrew Levy said that while the world trend was towards decentralised collective bargaining, SA was centralising.

And Anglo American group public affairs consultant Michael Spicer said the present state of SA's inflexible labour market and the direction of its labour policy was not encouraging in terms of a successful adaptation to the demands of globalisation.

Pityana said business had been very vocal about the burden the proposed Basic Conditions of Employment Bill would impose, but had not demonstrated by way of a detailed analysis what the actual costs would be

Government was not intolerant, nor did it have a closed mind, he said, but it needed to be presented with facts rather than speculation

Pityana argued on the contrary that new labour legislation had enhanced productivity and reduced social costs

Levy attacked the proposed 1,5%

training levy as being a tax on employment which would result in the discouragement of job creation

Pityana defended the proposal saying that apprenticeship training and investment in training in SA had been on the decline. Left to itself, business had failed to deal with these issues adequately, he said.

Pityana also denied business' assertions that there was a conflict between the labour department's perspectives and the goals set down in the growth, employment and redistribution (Gear) strategy.

But as an example of this conflict, Spicer said that Gear recognised the need for "a less onerous wage schedule for young trainees".

He called for an amendment to the Labour Relations Act so that agreements reached through centralised bargaining where the bargaining parties represented the majority of an industry were no longer required to be extended across the entire industry

Also, one of the objectives of Gear was variable minimum standards but so far this had not been included in the Basic Conditions of Employment Bill.

"Unfortunately, the department of labour has been rather tardy in putting any of these requirements of Gear into practice," Spicer said.

Outgoing Sacob president Philip Krawitz, to be replaced by Humphrey Khoza, also highlighted the failure to achieve Gear's job-creation targets which he blamed on the inflexibility of the labour market

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Outlook for Africa

Sacob questions claims of consensus

(166) B0 28/10/97

Reneé Grawitzky

THE SA Chamber of Business (Sacob) yesterday further brought into question Labour Minister Tito Mboweni's claim that sufficient consensus existed on the Basic Conditions of Employment Bill, by rejecting it in its present form.

Labour portfolio committee members were also yesterday still in the dark on additional amendments proposed in view of the deal struck between the African National Congress (ANC), Congress of SA Trade Unions (Cosatu) and the SA Com-

munist Party (SACP) last week. A committee member said keep- ing MP's in the dark as the bill was debated in the committee brought into question the parliamentary process and committees' role.

The SA Municipal Workers' Union (Samwu), a Cosatu affiliate, in raising concerns over the bill's approach to enforcement and compliance, said it was not worth the paper it was written on if it was not going to be properly enforced.

The union said the approach would reinforce a culture of non-compliance—a view reinforced dur-

ing two business submissions where it was claimed that small business "would simply go underground" and avoid the law if it became too onerous.

Sacob's submission outlined the effect the bill would have on small business, especially in an economic environment of jobless growth.

Business assured committee members that if not for the bill, it could guarantee that it would be able to create jobs.

Sacob said the bill had to be measured against whether it provided a barrier to entry for those wishing to

start businesses, expanded existing operations; or acted as a disincentive to those wishing to move from the informal to formal sector.

Sacob stressed that small business was particularly sensitive to regulations raising labour costs.

In this vein, it opposed the overtime premium of time-and-a-half, leave entitlements in general and family responsibility leave which could not be considered a basic condition, payment for work on Sunday and the increase of notice pay from two weeks to one calendar month's notice after one year of service.

Sacob also rejected the inclusion of the schedule to the Bill outlining a process to reduce working hours to a 40-hour working week.

Vuyo Mvoko reports the ANC and Cosatu yesterday confirmed that they had narrowed gaps that existed between them on the Bill.

Mboweni and Cosatu deputy secretary Zwellizima Vavi, speaking in Johannesburg yesterday, said in terms of an agreement reached last week by the ANC-led tripartite alliance, a maximum 45-hour week would be added to the core rights that cannot be varied on the bill.

Cosatu and ANC deal on Employment Bill

Only minor changes to new law

(166)
ARU 28/10/97

THABO MABASO
BUSINESS REPORTER

The Congress of South African Trade Unions (Cosatu) and the African National Congress have agreed to only minor changes to the Basic Conditions of Employment Bill.

The ANC announced yesterday it had agreed with Cosatu at a meeting last week that the union federation's demand for a 40-hour work week be reviewed every two years

But the meeting had not agreed on maternity leave and the minimum age of employment, which are two of Cosatu's other main demands

The labour federation is calling for six months' maternity leave and that the minimum age of employment be 16.

The Government has set a minimum age of 15 years

The two parties also said they would discuss the issues on which there was no agreement at follow-up meetings

In spite of a failure to agree on these and other issues, Cosatu was satisfied with the progress made at

the meeting and last week called off strikes planned for today and yesterday

Meanwhile, the South African Chamber of Business (Sacob) warned yesterday that small businesses should not be forced to comply with the provisions of the Basic Conditions of Employment Bill because, it said, to do so would lead to their ruin

'In spite of non-agreement on some issues, Cosatu was satisfied with the progress made'

Sacob's director for labour affairs and social policy, Gerrie Bezuidenhout, said the bill should be flexible enough to cater for the needs of small businesses

"Basic conditions, in Sacob's opinion, should be capable of being met by small businesses with little difficulty, otherwise it would not be basic condi-

tions. Improved conditions can then be negotiated as circumstances in the business allow," Mr Bezuidenhout told Parliament's Portfolio Committee on Labour

The committee has invited social organisations to comment on the bill. Sacob was the first organisation to have its say

Cosatu and Business South Africa (BSA) are scheduled to make their submissions on the proposed legislation today

"The views of small business as a major creator of jobs in South Africa have not been considered," Mr Bezuidenhout told the parliamentary committee

He added that Sacob was not opposed to the proposal for a 45-hour working week, but was against Cosatu's call for a 40-hour week

"The inclusion of a schedule to progressively reduce the statutory working week to 40 hours is strongly opposed," said Mr Bezuidenhout

Sacob was also opposed to calls for six months' maternity leave, four of which would be paid. This would lead to an increase in labour costs, Sacob said

Officer calls for labour bill to cover army

Reneé Grawitzky (166)

CAPE TOWN — The exclusion of the SA National Defence Force (SANDF) from the ambit of the Basic Conditions of Employment Bill came under the spotlight yesterday when an SA Navy officer made an urgent appeal for the law to cover uniformed members of the public service.

A submission to Parliament's labour committee by an individual of the SA navy could force the labour department to review its position on the exclusion of thousands of members of the defence force from the scope of the bill, a source close to the process said.

W/O Kevin Bohling told the committee that the exclusion of the bill from covering the defence force further entrenched autocratic decisions taken with regard to employment conditions in the service.

Increasingly, SANDF members were engaging in policing activities yet police were covered by such legislation and were allowed to join trade unions. There was no justifiable reason why SANDF members could not be covered by the bill, except of course during war situations.

Bohling said that although the Defence Act of 1957 precluded trade union membership, it did not preclude SANDF members from being granted basic rights not subject to the whim of defence headquarters.

He explained that the defence force, defined as part of the broader public service, did not comply with public service employment conditions.

Standing committee chairman Godfrey Oliphant confirmed defence had not been consulted on the bill.

BD 28/10/97

Employment bill debate rages on

ETC(BR) 29/10/97(166)

LYNDA LOXTON

PARLIAMENTARY CORRESPONDENT

Cape Town — Business and labour yesterday made impassioned pleas to parliament to “do the right thing” for South Africa as a whole when considering possible amendments to the controversial Basic Conditions of Employment Bill

But they remained deeply divided on what “the right thing” was, with heated exchanges between ANC parliamentary labour committee members and Tony Leon, the Democratic Party leader and labour spokesman

Leon was accused of supporting “big business”, represented by Business South Africa (BSA), at the expense of workers

Hans Smith, the BSA chairman, said business opposed the bill because it would increase labour costs at a time when industry had to become more competitive and would lead to job losses. ANC members accused BSA of not doing enough to cre-

ate jobs and questioned its patriotism.

Smith and Les Boyd, BSA vice-chairman, denied they did not have the interests of the country at heart

Representatives of Cosatu, the trade union federation, were also questioned on their submission on changes they wanted to see implemented. Sam Shilowa, the Cosatu secretary-general, denied that the bill would lead to job losses and said business wanted to “preserve apartheid cheap labour practices in the work place”.

Smith said the fact that Cosatu and government had appeared to reach agreement in bilateral talks on the bill jeopardised the search for broader social consensus. But Shilowa



Hans Smith

denied that business had not been left out of any social partnership. They were not members of the ANC-Cosatu-SACP alliance and had had their own bilateral talks with government, he said

“There is no agreement between Cosatu and the government,” Shilowa said. “There have been discussions around which we agreed that we need to relook at certain positions”

Godfrey Oliphant, the committee chairman, said his committee would now meet behind closed doors over the next few days, calling in representatives of both groups to clarify issues as needed.

It would meet formally again on Friday, when the labour department would present its views or recommendations based on the two-day hearing. The committee would have until at least Monday to recommend amendments before the bill was debated in the national assembly next week

Act leaves workers

'vulnerable'

Reneé Grawitzky

CAPE TOWN — The Basic Conditions of Employment Bill failed fundamentally to address the vulnerability of domestic workers, which was the intended objective of the labour ministry, the portfolio committee on labour was told yesterday.

University of Cape Town sociology lecturer Jonathan Grossman said the claimed objective of the Bill was to protect the vulnerable, such as domestic workers.

However, it failed to single out domestic workers for special protection and "reproduces rather than changes or challenges important parts of the vulnerability of domestic workers."

He said lawmaking meant to serve the interests of vulnerable workers had to go beyond the statute and words on paper. "The key test is: will it meaningfully change and improve the lived experience of ordinary workers?"

The Labour Relations Act, although providing improvements in the area of unfair dismissal, for example, was being undermined by non-compliance and a lack of adequate enforcement mechanisms.

Grossman said the Bill's acceptance of variation and flexibility ensured domestic workers would remain vulnerable and ensure that they continued to be treated unequally.

The bill ensured that workers were provided the least protection from employers at precisely the point where this was most needed.

Domestic workers, he said, were most vulnerable at the point of employment where the employer was free to decide whether to employ them and under what terms and conditions.

The ability of employers to vary standards downwards through individual contracts opened the door for the imposition of intolerable conditions "against unprotected workers", Grossman said.

Business, labour question govt's move on labour bill

2029/10/97 (166)
Reneé Grawitzky

GOVERNMENT's bid to exempt the public service from provisions of the Basic Conditions of Employment Bill was called into question yesterday by business and labour at public parliamentary labour committee hearings.

Business SA (BSA) called for the 18-month transitional arrangement granted to the public service to apply to all employers while the Congress of SA Trade Unions (Cosatu) said public sector workers should not be excluded.

Debate on the transitional provision granted to the public service to allow it time to implement the new provisions comes in the wake of earlier attempts by government to exclude the sector from the proposed legislation.

BSA's overall submission unleashed heated debate on whether the bill would hamper job creation. Some committee members were angered by the organisation's submission that jobs would be lost if the bill was passed.

African National Congress MP Philip Dexter accused business of presenting misleading information on the relationship between working hours and job losses.

Dexter questioned BSA's commitment to the new SA and claimed that it was unpatriotic.

Business argued that reducing working hours would raise unemployment and that countries which worked

longer hours had higher growth rates. This was disputed by Cosatu, which said there were countries which worked less but had high growth rates.

BSA chairman Hans Smith highlighted BSA's dissatisfaction with the process and said the bill was the product of talks between Cosatu and the African National Congress and which excluded business.

Cosatu general secretary Sam Shilowa said labour had compromised but business had refused to budge and the federation would not meet business until it showed a willingness to move.

Smith said BSA supported several provisions in the bill but not those which would raise costs and threaten prospects for growth and employment. He said the increase in the overtime provision would raise the wage bill for the steel industry by R231m.

Similar views were expressed by the Afrikaanse Handelsinstituut (AHI), which said the bill should strive to bring together "the providers of jobs and the jobless".

The AHI, endorsing the need for fair labour standards and a delicate balance between economic and social needs, stressed the important role of small business in job creation. The National African Federated Chamber of Commerce urged the committee to grant black micro businesses an exemption from the legislation until they were established as small businesses.

Cosatu, BSA in last attempt to change bill

Public hearings end

(166)
ARG 29/10/97

THABO MABASO
BUSINESS REPORTER

The Congress of South African Trade Union (Cosatu) and Business South Africa (BSA) yesterday mounted separate last minute attempts to convince legislators that the final draft of the Basic Conditions of Employment Bill (BCEB) should contain their proposals.

Cosatu and BSA presented different views on the bill and pleaded with the parliamentary portfolio committee on labour, which is holding public hearings on the BCEB, not to take cognisance of what the other was saying.

BSA was the first organisation to take the stand and weathered three hours of questioning by ANC Members of Parliament.

The BSA delegation stuck to its guns and warned the committee that the bill did not address the aspirations of the unemployed.

"The question business has to ask is whether this bill will help or

hinder the achievement of South Africa's economic and employment creation objectives. In other words, is this bill consistent with South Africa's strategy for Growth, Employment and Redistribution (Gear)," BSA chairman Hans Smith asked the committee.

"The simple answer to that question is no."

Mr Smith also took the ANC to task for concluding an agreement with Cosatu on the bill without consulting business organisations.

"The bill was, in the end, the product of bilateral negotiations that excluded business. Business' interests have accordingly not been accommodated, and the search for a broader social consensus has been jeopardised," he said.

Cosatu and the ANC agreed to include a schedule in the bill to review the federation's demand for a 40-hour working week every two years.

The committee will now discuss the bill, before passing it on to the National Assembly.

Business attacks 40-hour week

FRANK NXUMALO

Johannesburg — Business South Africa (BSA) said yesterday a 40-hour working week and the leave proposals in the new employment legislation would result in South Africa having an average of 53 working days fewer than comparable countries

South Africa is classified by the World Bank as an upper-middle income country and falls within a group of nations whose gross domestic product per person per year ranges from \$3 000 to \$8 000

These nations include Argentina, Brazil, Mexico, Chile, Malaysia, Greece and the Czech Republic

BSA said businesses with large labour inputs and long or continuous working hours would

(166)
be hardest hit by the Basic Conditions of Employment Bill

"One additional item, the increase in overtime rate (from time and a third to time and a half), will add a further R231 million a year to the steel industry's wage bill," said BSA

"It has been suggested that cost increases will be mitigated by the employment of more people working shorter hours, but this has not occurred in the vast majority of countries where working hours have been cut," the association said

World Bank data shows that South Africa's income peers have an average of 46 hours a week, which is still one hour above the 45 hours provided for in the bill.

Cosatu, the labour federation, and the ANC agreed last week

ET (PR) 30/10/97
that the 45-hour week was an upper limit that could not change.

BSA said a recent definitive study by Robert Lucas of the University of Massachusetts found that in South Africa a 10 percent increase in wage costs would, over time, lead to a 7 percent fall in employment among blacks

"When labour costs go up firms replace people with machinery and employment falls," said BSA

"In manufacturing, for example, R30 billion has been spent since 1989 on additional machinery while employment has fallen by 145 000. As labour costs increase with the bill, this mechanisation process will accelerate and further jobs losses will occur. Many economic studies confirm this tendency," said BSA.

No one has really thought about new bill's effects

This week's deliberations in Parliament on new labour legislation come to a head today. Labour reporter **Reneé Grawitzky** looks at the build-up

MO 31/10/97

THE creation of new legislation to replace the current Basic Conditions of Employment Act was this week likened by a member of the parliamentary portfolio committee on labour to the birth of an elephant, whose gestation period is also 18 months

As the proposed legislation reached its final stages this week, labour, business and other affected parties made last-ditch attempts to sway parliamentarians to jump one way or the other. This took place against a backdrop of widespread suspicion within business circles that a "final deal" between the Congress of SA Trade Unions (Cosatu) and the ANC on the eve of the parliamentary portfolio committee public hearings would make a mockery of the whole consultative process

Throughout the 18 months, from the time the green paper on employment standards was released, business believed that, in the end, a deal would be struck within the tripartite alliance to the detriment of its own position

The latest deal, attempting as it does to accommodate some of Cosatu's concerns, largely constituted symbolic changes. However, from business's side it merely reinforced earlier suspicions that a deal would be struck without them and that business's views are not taken seriously by government and would not be taken seriously by the portfolio committee

This might also have been a self-fulfilling prophecy for business, as its conduct during the committee hearings ensured that its message was not heard or fully appreciated

The committee, which is scheduled to make recommendations on the bill today, would like to have some say in shaping it — apart from the broader political decisions taken elsewhere.

Observers believe, however, that the committee's role has become rather limited and that it is unlikely to announce dramatic amendments. Anyway, the ANC-dominated committee essentially supported the thrust of the Bill and believed it reflected a major advance for worker rights.

The committee's task is made more difficult by virtue of the fact that the Bill is supposed to attempt to promote government's social objectives and fit in with its macroeconomic policy. However, observers say that — despite denials by Labour Minister Tito Mboweni — elements within the ANC believe it does not fit in with the growth, employment and redistribution strategy as it would provide a negative signal to foreign investors

Portfolio committee chairman Godfrey Oliphant says the Bill has represented a challenge for the committee and the public hearings were an eye-opener

Despite some scepticism over the committee's role in view of the broader political dynamics which developed around the Bill, it is expected to take on board a range of concerns raised by small business, a member of the SA National Defence Force and the agricultural sector.

It is unlikely, however, that further movement will be made on the contentious clauses raised by big business and Cosatu. Both have agreed to a reduction in working hours to 45 a week, and four months maternity leave, with further discussion needed on the question of payment

Essentially, agreement exists on the need for a variation model to allow parties to vary conditions of employment. However, differences arose over which conditions could be varied and to what extent, as well as over ministerial powers in this regard

Through talks, the ANC found an accommodation with Cosatu in which the parties agreed that, overall, workers would not be worse off as a result of

varying conditions

Cosatu did not, however, get a 40-hour legislated working week despite business's claims that the schedule to the Bill effectively entrenches a duty to bargain this issue.

Business, on the other hand, argued during its submissions that many of its concerns had not been addressed — such as the increase in notice periods which would raise existing costs of employment, and increased overtime rates. Business SA said that in the steel industry, for example, the increase in overtime rates alone — without the other provisions which would raise costs — would increase the wage bill by R231m.

The basic thrust of BSA's arguments against the promulgation of the Bill in its current form appears to have fallen on deaf ears because of its perceived attitude towards the members of the committee

A committee member said BSA attempted to portray itself as the champion of the poor and unemployed and the conscience of society and presented "an end of civilisation argument"

The response to BSA was not a case of the committee "shooting the messenger because they did not like the message" — as Amic chairman Leshe Boyd

seemed to imply — but rather the committee believing BSA had been arrogant and had presented a dishonest characterisation of its role in society

This, coupled with the perceived threat that it would slash jobs if the Bill was promulgated, was not well received

The committee reacted sharply to the perceived threats, with Oliphant intervening and asking pointedly whether business would target workers if the Bill was passed

The committee also felt it was being misled by statistics presented to support certain arguments relating to the inverse relationship between reduced working hours and employment levels, and the correlation between working hours and growth levels

Following business's submissions, discussion degenerated into a free-for-all on job creation, with Cosatu rejecting BSA's argument that the Bill would perpetuate the current situation of jobless growth and offering to enter into discussion on a national productivity accord. Cosatu said the Bill was not even in place and the country was still losing jobs and had lost thousands in recent years when no "restrictive" legislation was in place

A committee member said that during the apartheid era there was common consent that labour was cheap and unregulated yet the economy was not characterised by full employment or high levels of economic growth. The new government had inherited high levels of unemployment, he said

Business, through its approach lost an opportunity to properly present concerns — that many within the ANC share — that the Bill could act as a barrier to entry for potential foreign investors

The reality is that between 1989 and 1996, the manufacturing sector spent R30bn in additional plant and equipment, after replacing old machinery. During the same period, 145 000 jobs were lost in that sector alone and output increased only slightly. The phenomenon of jobless growth has been with us for a long time

The tragedy of the whole process is that the long-term consequences of the Bill for employment levels have not seriously been considered because of massive differences between the parties over the factors affecting job creation. Labour Minister Tito Mboweni's on-off jobs summit may yet happen. But only the most optimistic can believe it will do much good



Broad agreement on a macro-economic strategy
between business, labour and the state is vital



A National March of Men and Children on November 22 will focus on violence against women and children

The Star ... Friday October 31 1997

Ebrahim Patel... spoke on growth rate



It was men-in-suits time at Parliament's Good Hope chambers this week as various interest groups lined up to present their views on the Basic Conditions of Employment Bill (BCEB) to the labour portfolio committee.

There was some grandstanding and a little humour - such as when ANC MP Phillip Dexter told DP leader Tony Leon he was "trying to be the bosses' shop-steward".

There was also the inevitable the notable absence of women and the dominance of white men in the Business South Africa (BSA) delegation.

BSA claims to represent 85% of employers in the country. All six of its delegates were men, five of them white.

Ironically, the BSA's presentation was far less polished than Cosatu's. Cosatu submitted a 23-page document that went through the bill line by line and proposed amendments. BSA listed its objections, but did not propose alternatives. BSA also faced an essentially hostile

Cosatu and business square up

The Basic Conditions of Employment Bill has engendered strong feelings, writes Kerry Cullinan

committee of a host of ex-unionists and SACP members and chaired by ex-Cosatu official Godfrey Ohlphant. Of the assembled MPs, only Leon spoke out in agreement with business.

One issue dominated the debate as business and labour squared up: what causes economic growth and jobs?

One of the sticking points between BSA and Cosatu is how long the working week should be. Cosatu wants a 45-hour working week to be legislated for immediately, and a 40-hour week to be phased in over five years.

BSA supports 45 hours but is against 40 hours. BSA chairperson Hans Smith argued that a 40-hour week "would be an additional constraint upon growth and economic efficiency". The epitome of an employer, in pinstripes topped by a steely brushcut, Smith added that "the view is that the required reduction in hours will inevitably lead to increased employment is not true".

Another factor in the bill that would counteract growth, said Smith, was the increase in the overtime rate (from one-

and-a-third of the normal hourly rate to one-and-a-half).

"Calculations in the steel industry indicate that this provision alone will add an additional R231-million to the annual wage bill," said Smith, who is also the chief executive officer of Iscor.

Employers also oppose increasing the notice periods and the introduction of "family responsibility leave", but support four months' maternity at 45% pay, and an increase in annual leave to three weeks.

But BSA warned that the new proposed reduction in hours and the increase in "various leave entitlements" meant the country's annual working hours "will be reduced by 16%". This means that South Africans will work on average 53 days less a year than workers from other countries with a similar per capita gross domestic product (GDP).

These are sobering figures, especially given that business argues that reduced working hours mean less growth, which

Star 31/10/97 (166)

But the ANC's Dexter - a former unionist - did not buy this argument. "Why is it that in the entire time we have not had the bill, there has been no job creation but job losses?" he asked. Cosatu tackled business's view that fewer working hours automatically meant less productivity and smaller economic growth.

Cosatu's Ebrahim Patel took figures supplied by BSA itself to develop this point. BSA had submitted a graph showing that Malaysia, with a 48-hour week, had a growth rate of 8.7% (averaged from 1990 to 1995). South Africa's growth rate over the same period, Patel said, accorded to the BSA figures, was averaged at 0.6%, based on an average 46-hour week.

Patel pointed to the fact that Brazil (also on the BSA graph) had a growth rate of 2.7%, yet Brazilians worked a 44-hour week. "Should we then argue that if we shorten our working week by two hours, we will increase growth?" asked Patel.

Cosatu was willing to negotiate "a national productivity accord" with business and Government to increase the coun-

try's output and ensure that more jobs were created, he added. Patel also addressed BSA's concern that South Africa would chase away foreign investors if it shortened working hours.

"A recent study by the International Monetary Fund showed that the bulk of foreign direct investment goes to developed countries which have shorter working weeks," said Patel. "Most foreign investment went to China, where the Chinese parliament has just agreed to a 40-hour working week."

Although BSA and Cosatu were miles apart at the hearings, they both alluded to a common problem. Without broad agreement on a macro-economic strategy between the state, business and labour, it is very difficult to reach agreement on different pieces of legislation. Perhaps they can start by agreeing on how jobs can be created and productivity increased.

Kerry Cullinan works as a journalist for Idasa

(200) (164.)
Civil service
singled out
in labour bill
CT(PK) 3/11/97

LYNDA LOXTON

Cape Town — The government is still insisting that the civil service, but not small business, should be exempt from the Basic Conditions of Employment Bill for 18 months after the act is promulgated.

"Why the sauce for the goose (and not the gander)?" asked Tony Leon, the Democratic Party leader, on Friday while the parliamentary labour committee was considering possible amendments to the bill.

Organised business has claimed the shorter working hours and higher overtime payments implied by the bill will increase business costs, particularly affecting small business. The National African Federation of Chambers of Commerce called last week for blanket exemptions for micro-enterprises and an exemption for five years for all small business.

Exemptions have been rejected by the department, though it has said it would study the potential effect on small business before the bill was promulgated.

Les Kettleidas, the deputy director general of labour, said the civil service would be exempt because it had a bargaining council and, in most cases, its conditions were better than those provided for in the bill. The public service was also being restructured, which would take time to complete and to renegotiate conditions through the new sectoral bargaining councils.

"The determinations of conditions is linked very directly with the budget process and will be linked to the medium-term expenditure framework," Kettleidas said. "Since the service is larger and their budgeting process is far more cumbersome than that in the private sector, the public service requires a transitional period."

The committee meets today to consider the department's proposed amendments and those submitted by political parties based on last week's hearing.

CT(MR) 3/11/97
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Employment bill still a bone of contention

An extra dimension was added to the ongoing debate about the role of the legislature vis a vis the executive last week, when the parliamentary labour committee was bowled a googly in the form of the controversial Basic Conditions of Employment Bill. Despite extensive negotiations, business, government and labour had failed to reach an agreement on the bill in Nedlac.

It was handed to parliament to "hear the people" and then decide whether it should be passed this session, with or without amendments. Its task was unenviable given the complexities and contentions involved, but it will try to wrap it up today before the bill is tabled in the national assembly later this week.

The oral evidence by Business South Africa (BSA) and Cosatu grabbed the headlines. The two were so diametrically opposed in terms of what they wanted from the bill that it was easy to see why the Nedlac process had failed to shift them.

Inevitably, they used the parliamentary hearings to take ideological pot shots at each other once again, with Cosatu accusing business of wanting to preserve apartheid's cheap labour practices and BSA hinting that the ANC-Cosatu-SACP alliance

was sidelining it and jeopardising the search for a broader social consensus.

Nedlac's apparent failure to deliver consensus on the bill has led to some sharp comments by Siphos Pityana, the labour director-general, about how the adversarial stance of its members was slowing down government's efforts to implement socio-economic reforms. This has strengthened the arm of those who view Nedlac as something of a cuckoo in the nest of newfound democracy.

The latter argue that consensus-making in a democratic society is the prerogative of parliament and not some outside institution that debates things behind closed doors and delivers legislation to the people's representatives for rubber-stamping.

Both BSA and Cosatu strongly denied last week that Nedlac no longer had a role to play and said they fully supported it — if only their adversaries would behave themselves.

After several attempts, it seems as if the minerals and



LYNDA
LOXTON

energy committee might at last get the board of the state-owned Central Energy Fund before it this morning, to spell out its vision for the future and explain who suspended former general manager Kobus van Zyl, and why.

Don Mkhwanazi, the Central Energy Fund chairman, missed his last appointment with the board because he was attending a conference in China. The committee was rather upset to be faced once again with bureaucrats rather than policy makers, as it tried to get a grip on plans to restructure the energy sector.

Mkhwanazi placed advertisements last week in the media calling for public comment on how CEF should be restructured. The committee will surely want to know if, and how, it could be involved in the process. The committee originally planned to hold a workshop this session on the restructuring of the liquid fuels industry, but time is running out and it may now have to be held next year.

Max Sisulu, the ANC chief whip, released his first annual report to the ANC caucus last week, in which he outlined steps to heighten the public profile of parliament, make it more efficient and ensure that

parliamentary committees were more accountable for the way they spent taxpayers' money.

Committee funding guidelines have been established and every committee has been asked to draw up a budget for next year, with items costing more than R5 000 to be approved by Sisulu's office.

Sisulu said he had been bogged down by red tape but had restructured and streamlined his office and decided on a wide range of measures to ensure that MPs and ministers attended both house sittings and committee meetings.

He has paid particular attention to improving the flow of information between MPs and within and between the ANC and the media. This is important in brushing up the image of parliament and convincing an increasingly sceptical public that MPs are not riding on the "gravy train" but spending long, hard hours in committees and in the house, reviewing and debating legislation.

He has increased the number of parliamentary bulletins issued which summarise major legislation before parliament (<http://www.anc.org.za/anedocs/pubs/index.htm#bulletin>), and plans to appoint press officers for MPs to avoid the "hit and miss" media relations of the past.

Amendments to employment bill 'forsake'

Reneé Grawitzky

CAPE TOWN — The labour department's proposed amendments to the Basic Conditions of Employment Bill tabled on Friday largely captured the alliance "deal" reached last week, but failed to address big business's concerns over the possible effect of increased costs on jobs.

Business said the amendments did not take into account the department's broad concerns about the bill while the Congress of SA Trade Unions (Cosatu) expressed reservations over additional amendments made.

DP leader Tony Leon accused Labour Minister Tito Mboweni of not playing open cards on the bill which "gives on the one hand and takes with the other".

Leon, at a news conference on Friday, threatened to try to delay the bill being tabled and debated in the national assembly on Wednesday by flooding the order papers with proposed amendments. He could not be reached yesterday.

Business SA spokesman Adrian du Plessis said the inclusion of a 45-hour week as a core right which could not be varied by agreement with a trade union or

exemption from the labour minister would impose further rigidities on the labour market. "This would prove problematic for those industries currently granted exemptions on working time."

Cosatu said although it welcomed many of the amendments it was concerned about the investigation into small business and concessions granted to the agricultural sector.

The amendments, presented to the parliamentary portfolio committee on labour, addressed the concerns of small business by providing for an investigation into the possible impact of the bill on

that sector to be completed before the bill was promulgated.

Labour department deputy director-general Les Kettle said the department was "mindful of potential problems that the bill could create", but stressed that many other factors outside of the bill constituted barriers to entry for small business.

The department rejected a call by the National Federated Chamber of Commerce for a blanket exemption for micro enterprises and an exemption for five years for all small business.

The department, in addressing a number of concerns raised by the

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SA Agricultural Union with regard to the definition of night work, seasonal arrangements for working hours and the averaging thereof, proposed some slight changes in the transitional arrangements and an investigation into working hours in the event of a sectoral determination.

The departments' proposed amendments, largely incorporating the alliance deal, which itself was a compromise on Cosatu's initial demands, included a 45-hour week as a core right; payment of maternity benefits determined by the minister; reducing the period over which the security industry

could phase in a 45-hour week from 60 hours, and reversing the procedure to investigate progress in achieving a 40-hour week as outlined in the schedule to the bill.

Other amendments related to the much-contested powers of the minister which Leon felt were insufficient, and he proposed a parliamentary regulatory review committee — in addition to the portfolio committee — to scrutinise draft regulations submitted by the minister.

The department also made recommendations to ensure enforcement by raising the maximum penalties for lack of compliance.

Small business wants changes in employment bill

ARL 3/11/97

(166)

Parliament could be asked early next year to approve amendments to the Basic Conditions of Employment Bill to make it friendlier to small business.

But thus, said deputy director general of labour Les Kettleidas, would depend on the outcome of a proposed investigation into the effects of the bill on the sector.

He told Parliament's portfolio committee on labour on Friday that he was aware of potential problems the bill could create for small business, and that the department was seeking the committee's support for the investigation.

The Department of Trade and Industry's centre for small business promotion had already said it was prepared to conduct the probe jointly with the labour department. This should be completed before

the bill was promulgated, which is expected in the first half of 1998.

Mr Kettleidas presented the committee with a list of proposed amendments to the bill, drawn up by the department after two days of public hearings. The amendments also follow the deal reached between the African National Congress and the Congress of SA Trade Unions, which had been threatening strikes over the legislation.

Representatives of organised business told the committee at the public hearings that small business would be particularly hard hit by the bill.

However, Mr Kettleidas rejected a call by the National African Federated Chambers of Commerce for a blanket exemption for micro-enterprises and a five year exemption for all small business on the grounds that this would require a definition of who

was to be excluded

Excluding employers who employed fewer than a certain number had in the past led to abuses, such as dividing one company into two smaller companies owned by a husband and wife.

Mr Kettleidas said the department also accepted proposals by Cosatu that maximum hours of work - set at 45 hours in the bill - should be listed as a core, or non-negotiable, right, and that the working week for security guards be cut from 60 to 55 as soon as the bill became law.

It proposed, in line with submissions by organised labour, that the maximums set for fines payable by employers for contraventions be scrapped, and that the minister determine maternity benefits payable by the Unemployment Insurance Fund. A spokesman for Business South

Africa (BSA), Adrian du Plessis, said that, in balance, the proposed amendments did not meet business' underlying concerns with the bill.

BSA was particularly opposed to the proposed entrenchment of the 45-hour week as a core right, which would have a critical effect on the flexibility necessary in regulation of employment.

However, he welcomed the proposed probe into small business as a "constructive" development.

The committee will meet today to consider the department's amendments, as well as changes proposed by the Democratic Party and the National Party.

The DP has proposed that small businesses be exempted from the bill, except the provisions on forced and child labour. It wants an 18-month phasing in period for all sectors, and a

multi-party parliamentary oversight committee to review regulations made by the minister under the bill.

DP leader and labour spokesman Tony Leon said his party would flood the parliamentary order paper with dozens of amendments if its suggestions were not taken up.

This could delay passage of the bill, due to be debated on Wednesday.

NP labour spokesman Adrian Blaas said the NP also wanted exemptions for small business, and tabled amendments to keep overtime at time-and-a-third rather than time-and-a-half. It also wanted to scrap all reference to a long-term goal of a 40-hour week, and limit the minister's discretionary powers by allowing him to vary basic conditions of employment only in agreement with the Employment Conditions Commission - Sapa.

Employment bill forced through

ET (PR) 4/11/97 (166)

LYNDA LOXTON

PARLIAMENTARY CORRESPONDENT

Cape Town — Opposition party attempts to amend the controversial Basic Conditions of Employment Bill were stymied yesterday and it seemed likely to be passed tomorrow with only minor changes

Two last-minute amendments by ANC MPs specifying paid maternity leave and the involvement of union representatives in any agreement on overtime or other conditions of work were withdrawn after legal advice that they did not tally with the intentions of the bill and could create legal uncertainties

Godfrey Oliphant, the parliamentary labour committee chairman, said the labour department still had to pay attention in other legislation to issues such as the position of part-time or

temporary workers, and said it should undertake "within a reasonable time" an investigation into how the bill would affect small business

Adrian du Plessis, the Business South Africa (BSA) negotiator, said it was a pity the committee had not addressed the concerns expressed by organised business, particularly the fact that a shorter working week would increase costs without improving productivity

"Certain of the provisions are unworkable and other provisions are going to impose conditions that are going to be harmful to the economy," he said

Earlier, Les Kettledas, the department of labour deputy director general, said the department could not agree with opposition parties that economic growth depended on more flexible labour markets

"We also think that it is wrong for South Africa to become more competitive on the basis of low wages and poor conditions," he said

No systematic evidence has been produced to back claims that the bill would cut working time by 20 percent and increase labour costs by 10 percent. Kettledas said the department could also not support demands to cut the overtime premium

"South African workers work long hours in overtime, which is anomalous considering our high unemployment rate. Increasing the premium will make employers value overtime more, use it more efficiently and we believe that it could also initiate the creation of more jobs," he said.

Kettledas could also not support a blanket exemption of small business from the provisions of the bill

Work bill for vote ⁽¹⁶⁶⁾

CT 4/11/97

PARLIAMENT'S labour portfolio committee yesterday approved the Basic Conditions of Employment Bill. The National Assembly is to vote on the bill tomorrow.

The ANC majority on the committee, backed by the labour department, rejected a Democratic Party proposal that small business be exempted from all provisions in the bill, except those governing child and forced labour. — Sapa

● See Business Report, Page 17

ANC in last-ditch bid to amend bill

Reneé Grawitzky

CAPE TOWN — Parliament's labour committee yesterday approved the Basic Conditions of Employment Bill and the amendments proposed by the labour department, despite a last-minute attempt by the African National Congress (ANC) to push through additional pro-labour amendments.

The approval by the ANC, Inkatha Freedom Party and Pan Africanist Congress committee members, despite rejection by the Democratic Party (DP) and National Party, effectively ensures the bill will be passed during this session of Parliament, after being debated in the National Assembly tomorrow.

Business South Africa, the SA Chamber of Commerce and the DP last night appealed to government to reconsider the proposed legislation and warned the bill would have "dire con-

sequences" for job creation. Committee chairman Godfrey Oliphant said despite all the turbulence associated with the bill, the committee was able to vote in its favour.

In a surprise move, the ANC tabled an eight-page list of amendments without the knowledge of the labour department. It was withdrawn after lengthy debate and the adoption of some amendments.

The amendments were tabled initially by the Congress of SA Trade Unions (Cosatu) but rejected by the labour department. Oliphant said the document was withdrawn because the ANC did not want to delay the passage of the bill.

The committee approved the bill and labour department amendments, which largely incorporated the deal struck between Cosatu, the ANC and SA Communist Party last week.

SD 4/11/97 (166)
The more far-reaching of these amendments provide that a 45-hour week becomes a core right which cannot be varied, while business faces harsher fines if it fails to comply with the legislation.

In a move to appease concerns about the bill's effect on small business, the labour and trade and industry departments would conduct an investigation before the bill was promulgated.

The bill raises overtime rates from time-and-a-third to time-and-a-half, increases the notice period, extends annual leave from two to three weeks and maternity leave from three to four months, and reduces working hours to 45 with a schedule to reach a goal of a 40-hour working week.

It lifts the Sunday work prohibition, but still requires the payment of a premium for such work while introducing three days' family responsibility leave.

Opposition to labour bill is 'simplistic'

Reneé Grawitzky

EMPLOYERS continued to hammer the Basic Conditions of Employment Bill yesterday despite assurances by the labour department that it was consistent with government's macro-economic policy and would not impede future job creation.

Labour department minimum standards director Lisa Seftel argued at an Industrial Relations Association of SA (Irasa) seminar in Midrand yesterday that employer opposition to the bill reflected a simplistic view on the issue of labour costs, while Prof Anvil Verma of the University of Toronto's Centre for Industrial Relations, said history had shown that employers always opposed

labour law reform because it imposed costs on them. Governments would never be able to improve conditions of employment if the argument was adopted that increased labour standards led to increased costs, he said.

Economic fundamentals, Verma said, suggested that if labour was made more expensive, its use would decline. However, this equation was complicated by the fact that inexpensive commodities were not properly utilised and created inefficiencies.

Labour standards could be increased without affecting employment if there was a corresponding increase in productivity, Verma said.

A productivity enhancing agenda that employers and labour could both

agree to could break the logjam in improving employment conditions.

Verma said a company in a high value-added operation had reduced waste by 1% through work redesign, which then allowed management to provide wage increases over a ten-year period.

Parliament's labour committee chairman Godfrey Oliphant agreed with Verma's view that employers traditionally rejected labour law reform. He said employers had not only opposed the current bill but had opposed recent changes to the Compensation for Occupational Injury and Diseases Bill, the resultant cost of which had been "chicken feed".

In reaction to claims that reduced working hours would not necessarily

lead to increased employment, the labour department's Seftel said many workers wanted to work overtime. Therefore, this was an issue that the social partners had to address to ensure jobs were created.

Verma said governments could generally do more for job creation by creating infrastructure for industry, rather than by subsidies, tariff protection and increased regulation.

International developments had shown that governments failed to learn the lessons of history about labour law reform. Governments, he said, continued to place regulations on both parties formulated with the interests of only one party in mind, or designed without adequate consultation.

Notes prepared by the author

DP ties up bill with delaying tactics

Reneé Grawitzky

THE Democratic Party (DP) flooded Parliament's order papers yesterday with further amendments to the Basic Conditions of Employment Bill which could effectively delay the passage of the legislation today.

Business has rejected the bill as it stands, and the Congress of SA Trade Unions (Cosatu) has yet to respond on the deliberations of the labour portfolio committee and the tabling of a revised bill in Parliament.

It is believed Cosatu has expressed reservations to the labour department that a number of its proposed amendments were not addressed. ANC committee members made a point of tabling a list of amendments which they later withdrew. The amendments were the ones Cosatu initially proposed, but which were rejected.

DP leader Tony Leon said last night

that although the overall intention was not necessarily to delay the passage of the bill through Parliament this year, "my first prize would be to see the bill not going ahead, as Labour Minister Tito Mboweni himself has recognised the need for an investigation into the impact of the bill on small business".

In view of the investigation, proceeding with the bill was absurd, Leon said. It had everything to do with politics and nothing to do with economic sense. The majority of amendments tabled related to small business, to ensure this sector received some protection from the most onerous provisions.

The DP's tabling of further amendments could delay voting on the bill in the National Assembly today. But labour department deputy director-general Les Kettleidas said the voting might not necessarily be delayed as much depended on how the labour committee dealt with the amendments.

Leon said the bill could be debated in the National Assembly today but could not be voted on until the committee had met to consider the amendments. He indicated the committee could meet tonight, with the result that the bill could be voted on tomorrow.

The DP, he said, at best would delay voting on the bill for a day, but the overall intention was to utilise every legitimate parliamentary mechanism to try and ameliorate its worst and most negative features.

Leon said "all this could have been avoided" if the portfolio committee had shown a willingness to engage in a proper debate on the DP's proposed amendments, and used the committee system "other than as a showcase". The committee had flatly rejected all other proposals tabled by other parties once Cosatu and Mboweni struck a deal.

~~2~~ BD 5/11/97

(166)

See Page 5

DP takes last stand over jobs bill

CT 6/11/97

(166)

LYNDA LOXTON
DONWALD PRESSLY
PARLIAMENTARY BUREAU

THE Democratic Party (DP) took its last stand against the contentious Basic Conditions of Employment Bill in Parliament yesterday by tabling 22 last-minute amendments, thereby stalling the bill's passage through the National Assembly for at least one day.

"We are not going to vote today because there are new amendments that the DP have put onto the order paper and we cannot vote until we have looked into them," Parliamentary labour committee chairman Mr Godfrey Oliphant said last night.

"So we will vote tomorrow. This is really gerrymandering. They are trying to delay the passage and (DP leader) Tony Leon said to me that he is using all the weapons at his disposal. But it will go through. They are entitled to those tactics. It is part of the political game."

Leon said that all his party had done was use Parliamentary procedure "to its ultimate limit to try to make the point that proceeding with this bill is flying in the face of all common sense"

"I think the committee should be

engaged in that process to the very end even, as the evidence to date reveals, though the committee is nothing more than a showcase when it comes to this bill because they do not seriously entertain amendments which go outside the box the ministry of labour and Cosatu agreed to"

Asked if he had anything else up his sleeve, he said "I have run out of procedures. Tomorrow is the last stand."

Opposition parties and organised business have objected to the fact that the bill will, among other things

- Introduce a 45-hour working week, with a statutory commitment to bring this down to 40 hours over an unspecified period
- Increase overtime pay from time-and-a-third to time-and-a-half
- Introduce three days' family responsibility leave
- Provide Mr Tito Mboweni, the Labour Minister, with wide-ranging powers
- Provide four months' consecutive maternity leave
- Provide for daily rest periods of at least 12 hours, and weekly rest periods of at least 36 consecutive hours, including Sunday (unless otherwise agreed)

- Provide for Sunday work at double pay
- Lay down that with night work — between 6pm and 6am — employees must be paid an allowance or get time off, and transport must be available to take them home

Opponents claim these and other measures will increase labour costs, place extra pressure on small businesses and cost jobs.

Mboweni has been adamant, however, that the bill merely seeks to protect vulnerable and lowly paid workers, improve rights for all workers and modernise existing laws. He has pledged to examine the possible effects on small business before the bill is promulgated, possibly later next year.

He said the government had done more than any other to promote the cause of small businesses, as reflected by the conference being held in Durban this week to reinforce support for small and medium enterprises.

The DP, which claimed to champion small business, was really only the "party of conglomerates and monopoly capital"

The bill could also not be blamed for unemployment, which had been rising for some years. This was due to a range of policies which were now being reviewed with the aim of enhancing job-creation, he said.

Law pits real talk against red tape

ET 6/11/97 (166)

A NEW LAW under the European Commission social chapter would require agreement on sackings, writes **CHARLES BREMNER**.

THE European Commission is preparing the way for a new law under the social chapter that will require all but the smallest firms to consult their employees on future policy and would render void any sackings without such action

The move, which would greatly extend an existing law that covers large multinational companies, is aimed at bringing Britain and Ireland into line with continental practice which requires firms to operate works councils

The British government has criticised the idea as an unnecessary burden on business but, under the social chapter, which Britain is joining in the Treaty of Amsterdam, any opposition could be overruled by a majority vote.

The commission's decision comes as ministers meet in Brussels to prepare for the European Union jobs summit later this month at which Britain will press for easing the burden of regulations on employers. Tony Blair has been urging EU leaders to refrain from using the social chapter to pass new laws that could inflict more red tape on business

Britain has already signed laws on parental leave, the rights of part-time workers and shifting the burden of proof in sexual discrimination cases. The proposed law on consultation will test the government's commitment to improved workers' rights against the potentially conflicting drive for more flexible labour regulation.

Under the rules of the social chapter, the commission will give EU employers' organisations and unions six weeks to decide whether to negotiate their own version of a consultation law. Failing this, Padraig Flynn, the EU social affairs

commissioner, will submit a draft law for the member states to enact

In discussions, employers resisted the scheme and unions favoured it. Two pieces of legislation have already been enacted through agreement between the "social partners", as the employers and unions are called

British officials said that government favoured such negotiations as the best route for drafting the proposed consultation law. However, when the idea was first mooted last June, Downing Street said "We are not in favour of new regulation in this area"

The legislation is intended to curb "social dumping", in which "companies shop around for places that have low requirements in industrial relations", an EU official said. Britain, with its low employment costs, is deemed on the continent to be the worst "offender"

A commission document says the proposed law would provide equal treatment for all workers across the EU "and ensure greater compatibility between national provisions". It must enshrine "the right of workers to be informed and consulted on the economic situation and the future of the company and on any decisions likely to affect them"

This is intended to benefit workers and companies by improving morale and helping staff to adapt to rapidly changing conditions. Flynn wants the law to include penalties against firms that flout the legal obligation to consult.

Public pressure on the commission for such action has come from highly publicised cases of factory closure, notably a decision by the vehicle manufacturer Renault to sack 2 000 workers at its plant in Brussels earlier this year

The main proposed penalty would be to annul dismissal notices or any other decisions affecting the conditions of employment

The commission is not formally setting the size of company that will come under the law, but Flynn has cited a minimum of 50 employees as a desirable target

Under the existing multinational law, which is deemed by many British companies to have been beneficial, only firms employing at least 2 000 workers in two or more member states are required to set up works councils

The commission insists that the new scheme should allow for a less formal structure than works councils — The Times

Nedlac 'not to blame for

lack of agreement on bill?

Reneé Grawitzky

ED 6/11/97

166

IT WAS unfair to lay the blame on the National Economic Development and Labour Council (Nedlac) for the failure to reach agreement on the Basic Conditions of Employment Bill as the policy-making process in developing legislation was flawed, a leading labour lawyer said this week.

John Brand told delegates at the SA Industrial Relations Association seminar that the drafting process on the bill was flawed as social partners were only brought in when government had entrenched itself in its position.

This encouraged labour and business to adopt rigid positions in relation to government proposals prior to consideration in Nedlac, he said.

"This sets Nedlac up for a highly adversarial and flawed process" and it would be unfortunate if the experience of the bill was used as a pretext to weaken or discontinue the institution.

Nedlac was intended to play an important role in dispute resolution, Brand said, therefore the process for formulating legislation had to be reassessed if the best use was to be made of the institution.

Brand said labour and business should have been brought into the process after government had adopted its policy direction. "It does not work to bring in interested parties at a stage when the problem had already been de-

finned by one party and solutions had been decided upon without involving all the stakeholders."

The operation of the Commission for Conciliation, Mediation and Arbitration (CCMA) was also criticised.

Brand said the institution was under strain from its huge and unbudgeted-for case load. More than 45 500 cases had been referred to the commission, exceeding the budgeted case load by 37,5%. At the same time, the CCMA had received less funding than it had forecast in its budget.

Brand argued that amid such problems, the labour department had not recognised the interdependence of private dispute resolution (Independent Mediation Services of SA, for example) and statutory dispute resolution (the CCMA) and that a "flourishing private dispute resolution sector" would relieve it of some of the burden of providing resources for the commission.

A backlog had led to inexperienced commissioners, unfamiliar with labour law, conducting arbitrations. Some awards reflected only a superficial understanding and did not address the causes of conflict. This had led to complaints about the quality of awards.

Brand suggested that the department should consider moving the arbitration process from under the auspices of the CCMA to the Labour Court to ensure higher standards of arbitration and easier enforceability.



National Land Committee

Portfolio Committee on Land Affairs chairman Pathakle Holomisa hopes church leaders will set an example by giving land back to its owners, he told a conference in Johannesburg yesterday.

Churches 'should return land'

CHURCH leaders should set an example in restoring their land to its rightful owners, Parliament's land affairs portfolio committee chair-

man, Chief. Pathele Holomisa told the effective utilisation of church land conference in Johannesburg yesterday. It was ironic that churches had not played a leading role in giving back land and had not testified before the truth commission about land ownership of the land and to agree to have property audited, committee deputy director Dave Husy said. There was disappointment at the poor representation of Afrikaans churches at the conference, he said. Churches owned an unverified 7% of SA's land.

Picture: YRONE ARTHUR

Employment legislation probe to be launched ⁽¹⁶⁶⁾

BD 6/11/97

Jacob Dlamini

CAPE TOWN — The labour department would launch an investigation into the effects of its controversial draft legislation on employment standards on the small business sector, Labour Minister Tito Mboweni said yesterday.

The probe would be undertaken jointly with the trade and industry department and would seek to examine potential problems which the proposed Basic Conditions of Employment Bill would create for small business.

Mboweni said that the investigation would give the labour department useful suggestions on how to tackle the problems which were being faced by small business.

The suggestions could include short-term exemptions and special provisions for small employers such as shop owners. Other proposals would possibly include the use of simplified forms and dedicated mechanisms for advising small employers.

Mboweni's announcement came on the day that Parliament's speaker Frene Ginwala announced that the contentious bill would be referred back to the labour committee to allow it to consider a list of amendments proposed by the Democratic Party (DP).

Mboweni said numerous calls had been made for the exclusion of the small business sector from the provisions of the bill.

However, those focusing attention on the possible effect of labour costs of the bill had failed to examine factors — such as high interest rates and banks' reluctance to lend money to small businessmen — which constituted barriers to entry for small business or hampered their growth potential.

Mboweni rejected calls for the blanket exemption of small business and said the sector employed a large number of workers who needed protection. Blanket exemptions were often open to abuse, with employers adopting various measures to escape the provisions of the bill.

The bill is intended to protect low-paid workers, improve employment conditions and benefits such as annual and maternity leave, make it legal to work on Sundays and introduce a commitment to a 40-hour working week.

DP leader Tony Leon attacked Mboweni's announcement of a probe, saying that this showed government had not carefully examined the effect the bill would have on small business.

Leon said the employment conditions imposed by the bill would have a direct and debilitating effect on SA's struggling economy.

He warned that the bill would lead to unemployment.

It would also hamper the growth of small business, he said, and called for it to be held back to allow for Mboweni's probe to go ahead first.

DP's proposed changes to Employment Bill turned down

Parliament's Labour Portfolio Committee today rejected the Democratic Party's proposed changes to the Basic Conditions of Employment Bill.

The bill was debated in the National Assembly yesterday but a vote on it was delayed because the DP flooded the order paper with amendments to

the controversial measure. The vote will be taken this afternoon.

It took the committee less than 45 minutes to reach its decision after African National Congress members declined to enter into debate with DP leader Tony Leon, who explained the changes.

National Party Labour spokesman Adrian Blaas backed the DP's proposals except for one that would scrap a clause dealing with child labour, which Mr Leon said was too broad and vague.

Mr Leon agreed that the clause should be reformulated rather than

scrapped and and formally dropped this amendment.

ANC MP Jonathan Arêndse said any further amendments that political parties wished to "motivate" should be dealt with when the bill was referred to the National Council of Provinces.

While the DP sought to improve the bill for employers, the ANC might seek to improve it for workers, he said.

The bill, which will bring in a 45-hour working week, has been strongly opposed by organised business - Sapa

(166)

ARL 6/11/97

Small business 'will be crushed'

BUSINESS REPORTER

(166) (90)

ARG 6/11/97

The Basic Conditions of Employment Bill will crush small business, says entrepreneur Ndyabo Makapula.

Mr Makapula owns a fisheries business and is the spokesman for a group of small business associations in the Western Cape which demon-

strated outside Parliament yesterday

"Small businesses will be hit by massive compliance costs and the new labour bill's net effect will be to kill them off

"Negotiations on the bill included only the Government, labour, Nedlac and big business - the small guys were pushed aside," he said

Mboweni rules out exemptions

Star 6/11/97 (166)

Cape Town – Labour Minister Tito Mboweni has ruled out the possibility of small businesses being granted a blanket exemption from the provisions of the Basic Conditions of Employment Bill.

The controversial draft legislation, which has been more than two years in the making, was debated in the National Assembly yesterday, but will only be put to the vote today following the DP's flooding of yesterday's order paper with last-minute amendments.

The National Assembly's labour committee would discuss the DP proposals this morning, committee chairman Godfrey Oliphant said.

It is considered unlikely to accept any of them.

Several organisations had voiced complaints that the provisions of the bill were too onerous for small businesses to comply with.

But Mboweni said many workers in small businesses desperately needed protection from the legislation.

"Blanket exemptions are often open to abuse, with companies dividing into smaller companies to avoid their labour law responsibilities and obligations."

Mboweni said he had instead agreed to an investigation into the potential problems the bill could create for small businesses.

He defended the fact that the public sector would be given until 18 months after the bill was promulgated to

implement its provisions – a concession not granted to the private sector.

"This should give the Government as an employer and the unions in the public service adequate time to reorganise themselves and renegotiate conditions in line with the bill."

The bill will cover all workers except members of the army and intelligence services, and non-paid workers at charitable institutions.

Among other things it provides for a maximum 45-hour working week, and includes a schedule detailing procedures to reduce this to 40 hours.

The NP, DP and Freedom Front lambasted the bill. – Sapa

Jobs bill in, but new fight looms

ef 7/11/97 (166)

THE National Assembly yesterday adopted the controversial Basic Conditions of Employment Bill by 228 votes to 74

The bill received the support of the African National Congress, Pan Africanist Congress and the Inkatha Freedom Party, but was rejected by the National Party, Democratic Party, Freedom Front and African Christian Democratic Party

The wrangle over the legislation is not over however, with political parties set to introduce further amendments to the bill when it is referred to the National Council of Provinces

The ANC, with encouragement from its alliance partner the Congress of South African Trade Unions, is understood to be pushing for more workers' rights to be included in the final bill, especially for maternity leave to be fully paid

If the NCOP agrees to further changes, the Assembly will be asked to consider ratifying them when it reconvenes on November 24.

Labour Minister Mr Tito Mboweni said after the debate he was very happy with the Assembly's decision. It was a good bill, which would make a difference to the lives of workers — Sapa

● See Business Report, Page 13

Business fears 'disregarded'

et 7/11/97 (166)

FRANK NXUMALO

LABOUR CORRESPONDENT

Johannesburg — The passing of the Basic Conditions of Employment Bill disregarded business's strong concerns about its core provisions, Business South Africa (BSA) said yesterday

On the contrary, the revised version of the bill as passed by parliament was cause for "even greater concern", BSA said

It was particularly concerned by the "new limitations imposed, the variation in working hours and the increased powers of the minister in the determination of payment of maternity leave

"Business has consistently argued for a balance to be found between the imperatives of growth and job creation in South Africa and the need for workplace fairness. In business' view, this balance has not been found"

BSA said "The further reduction of hours proposed by the bill and the increase in employment costs will have negative effects on growth and job creation in South Africa"

Adrian du Plessis, BSA's chief negotiator at Nedlac, said certain obligations imposed by the bill would create additional rigidities in the labour market and these would stifle workplace innovation, necessary for future competitiveness

"Labour standards can only be further raised where improvements in productivity and business performance permit," Du Plessis said

He said trade-offs between growth and equity were a major prerequisite of labour market reform in the country and a "balance which might have to be found if further debate were not circumscribed by

the passage of the bill"

Lynda Loxton reports from Cape Town that, although the Basic Conditions of Employment Bill was passed by the national assembly yesterday, all political parties could still use its passage through the national council of provinces to attempt to change its provisions

The controversial bill's journey through parliament happened as a new study said South Africa's unemployment rate was lower than officially estimated, but at 24 percent it was among the highest in the world

The private sector has claimed the bill would have serious consequences for unemployment, especially in small businesses

The study had been conducted by socio-political analysts Lawrence Schlemmer and Charisse Levitz

Committee chairman gives voice on labour bill

Reneé Grawitzky

THE sharp differences between labour and business on the Basic Conditions of Employment Bill reflected the divisions in SA society, Parliament's labour portfolio committee chairman Godfrey Oliphant said yesterday.

Reflecting on the process which unfolded around the bill, Oliphant said that in a sense the process was predictable although government's position was clear from the beginning and parties had known since 1994 that legislation to amend the current act would be tabled.

It was unfortunate that the dynamics and differences which arose in the National Economic, Development and Labour Council (Nedlac) manifested themselves in the committee, he said.

Oliphant, a former second vice-president of the Congress of SA Trade Unions (Cosatu) and deputy chairman of the African National Congress (ANC) in the Northern Cape, is even well liked by the opposition parties in his committee. DP leader Tony Leon said jokingly that "unlike most Marxists Oliphant has a sense of humour and is fair-minded".



OLIPHANT

Oliphant, like other Cosatu leaders elected to go to Parliament, began his career in the mining industry working

for De Beers as an assistant training officer and full-time shaft steward. He was appointed committee chairman after the 1994 elections.

Oliphant said he was pleased the committee had held together until the end and voted in support of the bill.

The key challenge, he said, was to learn from this experience and evaluate how to use institutions such as Nedlac more effectively.

The bill was a learning curve to show that things could go wrong, and in future there would be further contentious legislation. The question was how Nedlac would cope with this when parties continued to cling to old ways of doing things, and old systems.

Business, he said, could not continue simply to reject proposals whether it

be a training levy or improvements to employment conditions.

Business and labour had to become innovative and creative on such issues, as well as on job creation. Employers, he said, had to develop a sense of accountability not only to investors but to broader society. There was a cost to democracy in the same way that many pieces of legislation had cost implications. Instead of concentrating on the immediate costs, employers should rather view this as an investment. Government had a serious agenda for transformation. Oliphant appealed to labour and business "Let's be serious and approach the questions of productivity, job creation and training with the same vigour as we approached the attainment of democracy".

Controversial labour bill is approved

Reneé Grawitzky
and Jacob Dlamini

CONTROVERSIAL legislation on employment standards was approved in Parliament last night, despite last-ditch opposition attempts to delay it.

The Basic Conditions of Employment Bill was passed in the National Assembly by 228 votes to 74, after Parliament's labour committee had rejected a string of proposed amendments by the Democratic Party which had delayed the bill's passage on Wednesday.

It emerged yesterday the African National Congress and the Congress of SA Trade Unions had held urgent discussions over Cosatu's objections that the bill failed to embody amendments agreed to in alliance meetings.

ANC labour committee members on Monday tabled 49 amendments to the bill in response to Cosatu's objections. Labour sources said the ANC had withdrawn these after Labour Minister Tito Mboweni had advised a represen-

tative of the portfolio committee that he could not read the bill in Parliament with changes he had not seen.

A Cosatu letter sent to affiliates says that after the ANC's withdrawal of the amendments, Mboweni advised Cosatu he had been unaware that they were initially tabled by the federation.

Mboweni last night denied he had told the portfolio committee he would not read the bill. He said on the basis of discussions with committee chairman Godfrey Olphant, he had understood that "any further changes had to be debated with the department", while the ANC had not had time to consider further changes.

At the time Olphant said ANC members agreed to withdraw the amendments because they did not want to delay the passage of the bill.

Mboweni acknowledged that there could be certain phrases which did not properly capture people's concerns. However, the department was prepared to hold further discussions.

Mboweni said if this process led to the tabling of an amendment bill early next year, "we will be open either way".

Mboweni said the ANC needed to discuss business's concerns with it.

The bill seeks to protect vulnerable workers, improve annual and maternity leave, commit government to a 45-hour working week and allow Sunday work, among other provisions.

DP leader Tony Leon said his party's amendments had been designed to introduce flexibility. As it stood, the law would stifle small business and create unemployment.

One of the DP's amendments suggested that only people who worked 16 hours a week should be protected by the bill. Leon said it would be absurd to include those who worked only 24 hours a week as this would mean babysitters who worked only once a week would be entitled to leave and other benefits.

See Page 4

Jobs shock as labour bill passed

POLITICAL STAFF

ARG 7/11/97

political analysts Lawrence Schlemmer and Charisse Levitz.

As the Basic Conditions of Employment Bill was passed by the National Assembly yesterday, a new study reported South Africa's unemployment rate was lower than officially estimated, but at 24% it was among the highest in the world.

The private sector has claimed that the bill will have serious consequences for unemployment, especially in small businesses

The study was conducted by socio-

Professor Schlemmer told a SA Institute of Race Relations meeting today that in the former homelands areas, the unemployment rate was more than 40% and among black women between the ages of 18 to 24 in those areas it exceeded 50%

He said the unemployment rate was increasing by between one and two percentage points a year and would exceed 40% if economic and employment patterns did not change

Employment bill sails through

Cape Town - The National Assembly adopted the controversial Basic Conditions of Employment Bill by 228 votes to 74 yesterday.

The bill was supported by the ANC, Pan Africanist Congress and the Inkatha Freedom Party, but was rejected by the National Party, Democratic Party, Freedom Front and African Christian Democratic Party.

The wrangle over the legislation is not yet over however, with political parties set to introduce further amendments to the bill when it is referred to the National Council of Provinces (NCOP).

The ANC, with encouragement from its alliance partner Cosatu, is understood to be pushing for greater workers' rights to be included in the final bill, especially for maternity leave to be fully paid.

NCOP committees will begin considering the legislation today.

If the NCOP agrees to further changes, the Assembly will be asked to consider ratifying them when it reconvenes on November 24.

Debate on the bill was due to have taken place on Wednesday, but this was delayed after the DP introduced last-minute amendments. These were rejected by the parliamentary labour portfolio committee yesterday morning.

In terms of parliamentary procedure, parties were given the opportunity to briefly state their declaration of

(166)
star 7/11/97
vote, because the vote had not taken place directly after Wednesday's debate.

Parties used the opportunity to restate positions expressed during the debate.

Labour Minister Tito Mboweni said after the Assembly adjourned that he was very happy with the vote.

It was a good bill, which would make a difference to the lives of workers, he said.

He did not expect the NCOP to make any changes, but said that if, as a result of discussions between business, labour and other interested parties, improvements could be made to the legislation, he would keep an open mind on including them.

Mboweni urged business to meet the ANC executive to discuss its grievances.

The bill, which has been more than two years in the making, is expected to be debated by the NCOP in the week starting on November 17.

Among other things, the bill provides for a maximum 45-hour working week and includes a schedule detailing procedures to achieve the goal of reducing this to 40 hours.

It will cover all workers, except those working for the army and intelligence services, and charity volunteer workers who earn below a certain limit - Sapa

► See Business Report

Job figures show up ANC's poor track record

The new labour bill is likely to worsen the employment situation, writes SVEN LUNSCHE

ST (PT) 9/11/97

ALMOST 80 000 formal sector jobs have been cut over the past one-and-a-half years and there are no indications that the ANC government has learned the lessons of its disastrous labour policies.

This week the National Assembly passed a controversial jobs law enshrining core worker rights despite renewed warnings from business that it will have a disastrous effect on growth and job creation.

The warnings were backed by a study by the SA Institute of Race Relations (SAIRR) warning that more rigid labour laws would have "a severe effect on labour absorption".

The government's track record since assuming power in May 1994 is a dismal one — a total of 25 000 jobs have been lost, only the most unproductive area, the public sector, has seen its numbers rise from 1 814-million in June 1994 to 1 9-million in June 1997.

Over the past one-and-a-half years unemployment has accelerated 80 000 jobs have been cut, including 20 000 public servants, as government attempts to trim its staff complement.

Over the same period the economy was to have created about 190 000 jobs in terms of government's Gear strategy.

In the three months to June this year alone 25 000 jobs, 0.5% of the total labour force, were cut, according to figures released by the Central Statistical Service this week.

The manufacturing sector — potentially the most significant employer — has been particularly hard hit since early last year, almost 90 000 jobs have been shed as companies responded to the economic slowdown and escalating labour costs. In the June 1997 quarter alone 40 000 jobs were eliminated.

The government has responded to criticism of the high unemployment rate — officially said to be 29% of the active workforce in 1995 — by questioning its accuracy. The SAIRR study undertaken by Prof Lawrence Schlemmer backs government in its assessment, saying the rate was probably more in the re-

gion of 23%, but adds that unemployment is rising by two percentage points every year.

The study among 30 000 participants states that about 20% of unemployed workers were in fact deriving income from informal sector activities. "A rate of 23% is nevertheless among the highest in the world and is probably rising by one to two percentage points a year," the SAIRR says.

Schlemmer says that one of the major reasons for the rise in unemployment are "labour disturbances, poor labour productivity and the cost of labour".

A study among 300 mainly small to medium-sized businesses also revealed that the inflexibility of the labour market and the "hassle factor" in the employment of low-skilled labour impeded job creation.

The study shows that SMEs were increasing their labour absorption rate but were doing so at a relatively lower rate in recent times.

"Against a background of poor labour productivity, the effects on labour absorption of any legalised upgrading of conditions of employment or further limitations on the flexibility of the use of labour are likely to be very severe," the study concludes.

Schlemmer says the effect of new laws would be particularly severe on

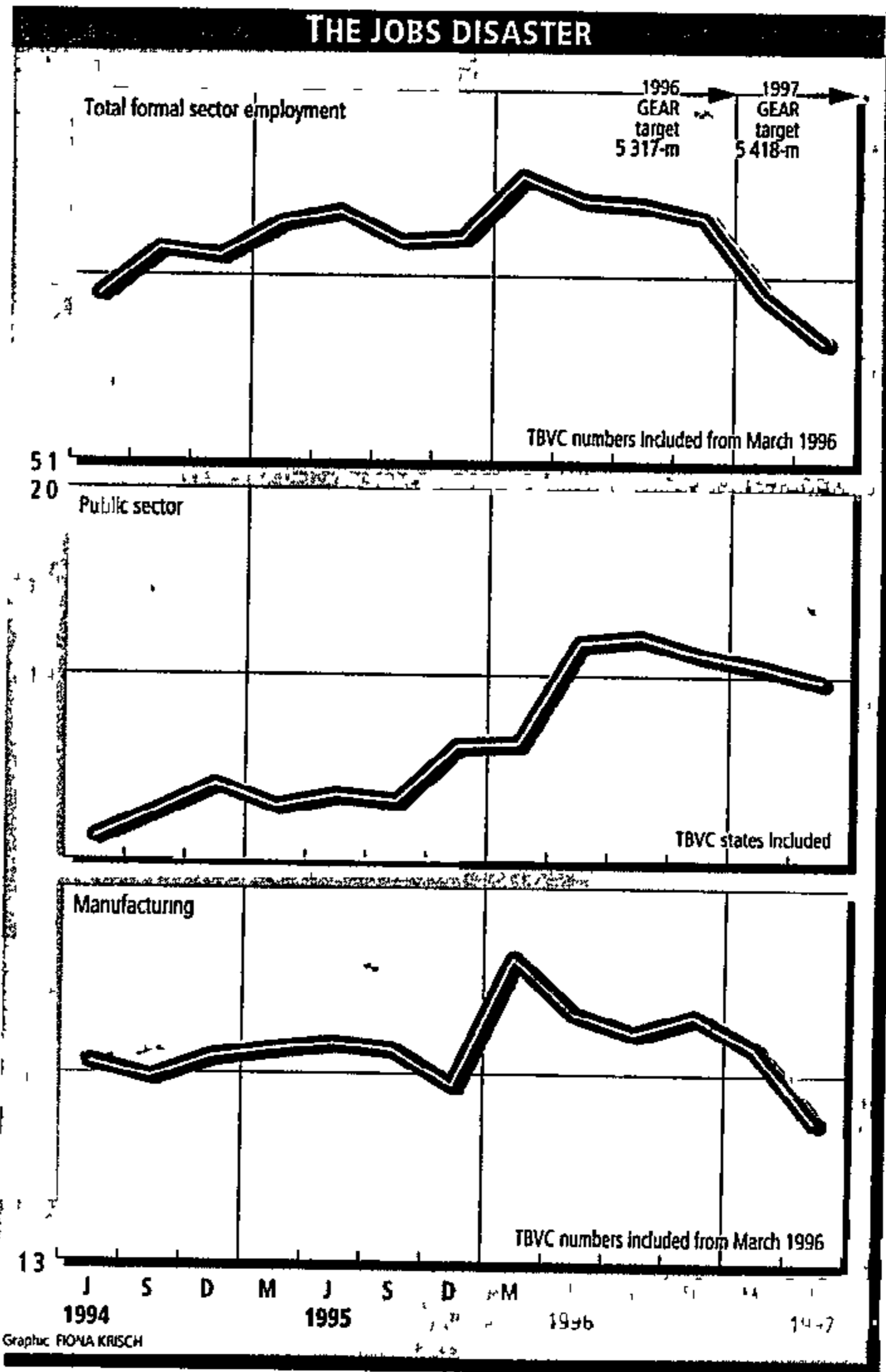
SMEs — "the very sector of the economy which has been absorbing labour, and in which the labour market up to now has not been unduly rigid".

Schlemmer also points out that SA was moving in an opposite direction to most of the rest of the world in terms of labour legislation. "Unless the SA economy meets its growth targets of 6% a year, the rate of unemployment will rise steadily to 30% and beyond in the next century".

Despite mounting evidence that high labour costs, entrenched by a bevy of new labour laws, are forcing business to cut back on jobs, the government sided with its Cosatu trade union alliance partners this week in passing the Basic Conditions of Employment Act.

Opposition Democratic Party leader Tony Leon warned that the bill would raise labour costs 10% and could thus lead to a further 300 000 job cuts. "This bill represents the triumph of politics over economic reality," Leon said.

Business SA's Adrian du Plessis said the bill had been passed without regard for the concerns of business, particularly because it had been amended to include the unions' demand for a progressive reduction to a 40-hour working week.



"The further reduction of hours proposed by the bill and the increase in employment costs involved will have negative effects on growth and job creation in South Africa," he warned.

The bill will have a particularly severe effect on small business.

While Labour Minister Tito Mboweni said he would investigate the effects of the changes on small business before the bill was promulgated in

mid-November, he said he was not in favour of blanket exemptions. He feared that exemptions could lead to abuse with companies dividing into smaller entities to avoid their labour law responsibilities.

However, promises last year to investigate exemptions for small business to clauses of the Labour Relations Act have yet to be implemented.

The bill cuts the working week to 45 hours, raises

overtime pay to time-and-a-half from time-and-a-third, extends holidays and maternity leave and sets other basic worker rights.

Mboweni tabled the bill after last-minute changes introduced by Cosatu, which established the 45-hour week as a non-negotiable core right.

This and other concessions to organised labour angered business, which said it had been excluded from the process.

Two years of labour pains

With Godfrey Oliphant as midwife, SA is about to give birth to a new labour law

CRAIG DOONAN

GODFREY OLIPHANT was just 16 when he spent a night in jail after a protest to demand improved living and study conditions at his high school. Twenty-two years later, Oliphant is still fighting — but this time for the rights of workers, and from the precincts of Parliament.

The diminutive former shop steward of capital's interests in helping push the Basic Conditions of Employment Bill — one of the most contentious pieces of legislation to come before Parliament this year and probably the most significant law governing the rights of unorganised workers.

The Bill has been almost two years in the making and has come under attack from both business and labour.

"This is a win-win. Bill Oliphant enthused this week, just hours before it was voted through the assembly by 228 votes to 74. The Bill is due to be enacted around May next year.

A former electrical worker-turned unionist, Oliphant rose through the labour movement to occupy the powerful second vice-president post in Cosatu before being elected as an ANC MP in 1994. He is now chairman of the parliamentary portfolio committee on labour.

He says his background has armed him with important insight into labour issues, and he shrugs off criticism that he merely promoted the interests of capital's interests in helping push the Bill through Parliament.

"The liberation alliance has made significant compromises by recognising economic considerations," he says.

Oliphant concedes that the labour committee has still not quite found itself in terms of its relationship to the National Economic Development and Labour Council (Nedlac), the bargaining forum for labour, the government and business.

"This relationship still has to be resolved. Some say we are merely a rubber stamp for Nedlac. We say we're strengthening Nedlac. Parlia-

ment is sovereign and Nedlac has pledged not to tamper with the sovereignty of Parliament."

Despite criticism from National Party leader Marthinus van Schalkwyk that the new Basic Conditions of Employment Bill should be called "Cosatu's version of job reservation Bill", Oliphant points out that compromises made by the alliance include

- The agreement on four-months' paid maternity leave, instead of Cosatu's demand for six months,

- The variation clause under which the labour minister may make a determination to replace or exclude any basic condition of employment for any category of employers or employees, and

- The decision to stick to a 45-hour working week, pending an investigation into this

He points out that the most significant aspects of the Bill are

- Setting in place procedures to achieve a 40-hour working week,
- Maximum overtime of three hours a day and 10 hours a week,
- A daily rest period of at least 12

consecutive hours,

- Three weeks' compulsory paid leave a year,

- Family-responsibility leave — three days after having been employed for four months,

- Sunday work to be paid at double the normal rate,

- Overtime work must be paid at one-and-a-half times the normal wage, and

- Basic conditions may be varied by individual or collective agreement or by the labour minister

While business has warned of dire economic consequences of the new Bill, Gerrie Bezuidenhout, director of labour affairs for the South African Chamber of Business, said after the Bill was passed "The day it becomes law, Sacob will urge its members to comply. But the effect of the law is another matter. We believe the Act will have negative consequences for job creation and could have wider economic repercussions."

He said the Bill would increase the cost of labour and that this could lead to a further reduction in jobs and an increase in consumers for labour-intensive products.

"This Bill will have a direct impact on small business as it is the only sector that can absorb labour and it will be inhibited from doing that."

Labour Minister Tito Mboweni is to launch an investigation into the potential problems the Bill could create for small business.

But, Bezuidenhout added, "the conclusion is that, as it stands, this Bill is not good news for the South African economy."

Cosatu, which has welcomed the Bill but has made it clear it has misgivings, said it was a milestone in the attempt to combat the abuse and insecurity faced by domestic, farm and casual workers in particular. The labour federation will, however, meet later this month to consider demands for further rights for workers.

And, Oliphant warned parliamentarians this week, labour legislation would be subject to the demands of the majority.

"Should there be any need to improve this legislation in future, this Parliament will look into those proposals," he said.

EMPLOYMENT BILL COULD INCREASE LABOUR COSTS BY 18%, REPORT SAYS

Johannesburg — The Basic Conditions of Employment Bill could increase labour costs by 18 percent, according to calculations by labour consultancy Andrew Levy and Associates, published at the weekend in the Econometrix Bulletin (ibb)

The report said it was ironic that the bill was passed by the national assembly a day after the Central Statistical Services said the level of employment dropped by a further 25 000 jobs in the second quarter. The bulletin also said it had gathered from official sources that the situation worsened in the third quarter.

"It is extremely disturbing to see how the government can pass such a piece of legislation whilst simultaneously trying to create 800 000 new jobs by 2000 through Gear," the report said. The impact on small businesses was likely to be greater than on big business, as the latter tended to be more capital intensive, the report said — Frank Nxumalo

47 Sauer St, Page 22

Public service department wants to be let off Sunday pay

Reneé Grawitzky

THE public service department is considering approaching Labour Minister Tito Mboweni to request an exemption from the Sunday work provision in the Basic Conditions of Employment Bill, which was passed by the National Assembly last week.

This follows earlier speculation that the extension of the legislation to the public service would prove very costly.

Public service and administration deputy director-general Neva Seidman Makgetla said speculation of huge costs being incurred by the state had been blown out of all proportion.

She said the only provision which would result in additional costs was the Sunday work provision.

The public service differed greatly from the private sector in that government had no option but to ensure people worked on a Sunday in safety and correctional services and health, to protect communities.

The exemption, if granted, she said, could be reviewed on an annual basis.

The public service already granted

maternity leave

Regarding overtime, workers were either paid overtime or given time off in lieu of payment. In some instances negotiations were under way to ensure workers were given time off instead of being paid for overtime. The bill allows employers to grant workers paid time off in lieu of overtime worked.

The act will require an employer to pay an employee who works on Sunday at double his normal hourly wage. If an employee normally works on Sunday, the employer will be required to pay one-and-a-half times the employee's wage for every hour worked.

Meanwhile, the Federation of Unions of SA (Fedusa) last week expressed concern that Mboweni had at the 11th hour made amendments to the act which would grant the public service 18 months of exemption from the legislation.

Fedusa general secretary Chez Milani said government clearly had double standards if "on the one hand it proposes an all-inclusive bill while on the other hand it proposes the exclusion of the public service".

BD 10/11/97 (166)

Cosatu demands strong team to enforce jobs law

Small business, farmers 'must comply'

THABO MABASO
BUSINESS REPORTER

The Congress of South African Trade Unions (Cosatu) has called on the Department of Labour to set up a strong inspectorate to enforce the Basic Conditions of Employment Bill when it becomes law

Cosatu spokesman Nowethu Mpati said at the weekend that a strong inspectorate would ensure that employers complied with the bill

"It is naive to think that many employers, such as farmers, will comply without being forced to do so," claimed Ms Mpati

"The inspectorate should be resourced in a way that will not allow farmers, small business bosses, unorganised establishments and employers of domestic workers to continue with their exploitative conduct as if

nothing has happened," she added

The challenge facing the Government is the monitoring and enforcing of the Act's provisions

The call by Cosatu comes after claims by small business organisations such as the Provincial Small Business Council (PSBC) that the bill will choke small entrepreneurs

Council chairman Edgar Adams has accused big business organisations and trade unions of negotiating a bill at the National Economic Development and Labour Council (Nedlac) that is not sympathetic to the needs of small entrepreneurs

"Small businesses should have representation at Nedlac because big business and trade unions forget that a larger number of people who have jobs are employed by small businesses," Mr Adams told the Cape Argus

ARG 10/11/97 (166)
The employment bill establishes minimum working conditions for vulnerable workers such as farm and domestic employees. Key provisions are a 45-hour working week and four months' maternity leave

Employer organisations such as Business South Africa (BSA) and the South African Chamber of Business (Sacob) have condemned the bill, saying small businesses would suffer most from its implementation

They have said the bill will lead to a rise in the labour costs of small businesses

Mr Adams cited provisions for the 45-hour work week, four months' maternity leave and overtime as sounding the death knell for small businesses

Labour Minister Tito Mboweni has defended the bill, saying too much attention was being paid to the labour costs of small businesses

"Little mention is made of the

role that basic conditions of employment can play to improve working conditions for workers in these small enterprises and thus their productivity," he told Parliament last week

The employment bill was adopted by the National Assembly with most parties supporting it

The African National Congress, Pan Africanist Congress and Inkatha Freedom Party supported the bill as it stood

The National Party, Democratic Party, Freedom Front and African Christian Democratic Party rejected the bill

The voting was 228 in favour and 74 against

The bill will be tabled before the National Council of Provinces (NCOP) on November 17

If the measure goes through the NCOP without hitches, it will become law soon after that



Labour Minister Tito Mboweni.

Cosatu welcomes new Act

(166)
Sowetan 10/11/97

By Abdul Milazi

THE Congress of South African Trade Unions (Cosatu) at the weekend welcomed the passing of the Basic Conditions of Employment Act with some reservations.

The Act was passed on Thursday after voting was delayed the previous day after the Democratic Party's surprise last-minute submissions proposing amendments to the legislation.

Cosatu spokeswoman Nowetu Mpati said the federation was not happy that some matters resolved by the tripartite alliance partners had not been properly reflected in the provisions of the Act.

These included the variation model for employment standards.

Also, few of Cosatu's proposed amendments to the parliamentary standing committee were in the Act.

The 18-month blanket exclusion of public sector workers from the Act, is another source of irritation for the federation. The Federation of Unions of South Africa has also rejected this.

However, while critical of these minor issues, Cosatu also acknowledged the positive side of the Act.

Mpati said "The passing of the Basic Conditions of Employment Act is a milestone in the attempt to combat the conditions of abuse and insecurity which workers face as a result of decades of apartheid, colonialism and capitalism.

"The Act is a step towards ensuring that workers are given relief from the relentless onslaught of unscrupulous employers on the working conditions of vulnerable workers like domestic and farm workers."

She listed some of the important victories for workers as

- Extension of the provisions of the Act to vulnerable workers such as domestic, farm and casual workers,
- Regulation of working hours,
- Protection against dismissal of pregnant workers and maternity leave provisions,
- Overtime provisions,
- Written particulars of employment, and
- Family responsibility leave.

"These and many other provisions of the Act will change the power relations between vulnerable workers and employers who think that we still live in a period of slavery," said Mpati.

Chamber calls for halt on new labour law

Samantha Sharpe

BD 14/11/97

(166)

CAPE TOWN — The Cape Chamber of Commerce and Industry has called for a moratorium on further labour legislation to allow for a period of economic consolidation and growth

Speaking at the chamber's annual general meeting yesterday, chamber president Al Gierdien said government's macroeconomic strategy was an ideal vehicle to growth and employment in the country

He said trade unions had to realise

short-term job losses was the price of efficiency in providing services in the public sector and global competitiveness in the private sector.

However, the result would be to rapid economic growth and job creation on an "unprecedented" scale

"The president has called for a job summit which has been deferred because of the tension that exists between labour and business. I believe the only way out of this impasse is to declare a moratorium on further labour legislation," Gierdien said.

Land restitution claims soaring

(167)

BD 14/11/97

PRETORIA — The number of claims for land restitution had risen by almost 5 300 since September, the commission on the restitution of land rights said yesterday

Chief commissioner Joe Seremane said in Pretoria that 22 404 claims had been received countrywide, four of which had been finalised

Most of the claims were lodged in the Western Cape (6 737), followed by KwaZulu-Natal (6 304) and Gauteng (4 427). Only 339 claims had been received in the Northern Cape. A total of 19 032 claims were in urban areas, compared with 3 372 in rural areas, Seremane said.

The most recent claim to be finalised was that of the Ratsegaa community, which last week received clearance to return to their ancestral land near Koster in North West. Their

land claim was the first to succeed in the Gauteng/North West region.

The Ratsegaa community consists of more than 2 000 people who are currently living in rural areas, in Soweto near Johannesburg and around Mabopane outside Pretoria

Their forefathers bought the land in 1890. In 1963, the community was forcibly removed under the apartheid laws of the former government. The land, totalling more than 4 000ha ended up in the hands of five farmers

Seremane said the first successful claim in KwaZulu-Natal was that of the Cremin community, which was driven from their land in the Klip River district in the 1960s.

Seremane said the court had ordered that the land be bought back from the deceased owner's estate and subdivided. — Sapa.

Water law changes 'violate property rights'

BD 14/11/97

(168)

Linda Ensor

CAPE TOWN — Proposed changes to water laws constituted a gross violation of one of the most basic rights of property enshrined in the constitution, Democratic Party (DP) leader Tony Leon said last night in his first foray into the Western Cape platteland

Former National Party supporters in the hinterland, mainly young, white Afrikaners, were showing increasing support for the DP, Western Cape provincial leader Hennie Bester said

before a public meeting in Citrusdal. He urged Afrikaners to regain self-confidence and build their own culture and participate in political debates and activities.

Leon attacked the proposed water law as expressing government's "urge to control every aspect of our lives". The DP rejected the argument that the right to water could be separated from a right to land. Farmers would be hampered as the law included the concept of water as being in "public trust", with government as sole custodian

PEANUTS

By Charles Schulz



Lawyers to go to court over labour act

Deborah Fine

THE Association of Law Societies has instructed its attorneys to prepare a court application testing the constitutionality of sections of the Labour Relations Act (LRA) which prevent lawyers from representing their clients in certain matters before the Commission for Conciliation, Mediation and Arbitration.

This was according to the November edition of the attorneys' journal De Rebus, which said the association was concerned that the LRA's restrictions were forcing labour law attorneys to

leave the profession and practice as labour consultants to represent their clients at conciliation proceedings. In terms of the LRA, legal practitioners are barred from representing clients at conciliation hearings. They are entitled to appear at formal arbitration hearings, with the exception of disputes concerning dismissals for alleged misconduct and incapacity.

In this instance, they are forced to apply for special permission to appear from the opposing party or the presiding commissioner.

The LRA states that parties appearing before the commission at such

hearings may appear in person or be represented by trade union officials or members of an employers' association. The ministerial task-team which originally drafted the LRA motivated the exclusion of attorneys with the claim that the profession often delayed the conciliation process and made it "legalistic and expensive".

De Rebus reported that the association was "seriously concerned" that labour law attorneys were being disadvantaged by labour consultants who were not precluded by any governing body from forming "bogus" trade unions or employers' associations in or

(166) BD 17/11/97

to represent their clients. The association, as the attorneys' governing body, precluded its members from doing so on ethical grounds.

De Rebus quoted association vice-president Esme du Plessis as saying it was "imperative" for the matter to be resolved in the constitutional court.

Transvaal Law Society vice-president Jan Stemmet told De Rebus: "The LRA is extremely complex and... lay persons who have to face experienced trade union officials, skilled human resources personnel and intimidating consultants are clearly disadvantaged."

SA-Australia agreement gives tourism hefty boost

Bonile Ngqiyaza

AN AGREEMENT which will inject R1,7m into the development and training resources of SA's tourism and hospitality industries, was signed recently between the Hospitality Industries' Training Board and an Australian counterpart, a board spokesman said.

The deal — announced at the weekend — was the first private sector-linked project of its kind in SA, said board executive director Tony Ansara.

He said the project between the board, the Western Melbourne Institute of Training and Further Educa-

tion and Ausaid — Australia's development aid programme — included a A\$250 000 contribution from Ausaid.

The board had undertaken to match the Ausaid contribution with an equivalent rand value.

The institute would provide assistance in developing the industry's capacity to train more people — particularly black managers — necessary to train others by supplying technology and human resources.

Ansara said SA presently had the capacity to train only 10% of the 40 000 additional workers expected to enter the tourism industry by 2000.

He said the board was developing a national qualifications framework which would stipulate a well-rounded training for people in the industry. "In line with that training, we want to issue a national certificate as opposed to company or enterprise level ones."

Meanwhile, the environmental affairs and tourism department on Friday released a report showing that 72% of the training providers within the industry felt there was a desperate need for tourism training.

The report said about 35 000 to 50 000 tourism and hospitality students were required to graduate each

year, with about 80% of those going to the hospitality sector to meet industry needs. Currently between 5 000 and 6 000 were enrolled in training, it said.

Training providers' opinions on problems were insufficient government support (57%), illiteracy and a lack of basic education among students (57%), and a lack of suitably qualified trainers (57%).

In order to increase their capacity to train in-house, employers said they would need suitably qualified teachers, greater availability of adequate training material and programmes, more funds and support from government

BD 17/11/97

Business in last-ditch stand against 'overly

ARRG

17/11/97

(166)

MICHAEL MORRIS
Special Writer

Business is making a final, desperate effort to change new workplace legislation which it fears will stifle entrepreneurs, undermine job creation and damage the economy.

Thousands of small businesses throughout the Western Cape will be hard-hit - and some may be forced to close - if the Basic Conditions of

Employment Bill becomes law, the Cape Chamber of Commerce and Industry has warned.

The final effort to have "overly prescriptive" measures in the bill watered down comes to a head tomorrow when the measure goes before the National Council of Provinces in the penultimate stage of political approval. The NCCOP's labour committee approved the bill today without amendment. It goes before the full Council tomorrow.

The bill seeks to establish new limits for working hours, overtime, leave, Sunday work and notice and retrenchment pay, among other things.

While the business community says it favours the intent of the legislation in promoting social justice and improving working conditions, the consequences of a prescriptive approach would be "disastrous". The Cape chamber, 80% of whose 4 000 members are small to medium-

size businesses, points out that while the Western Cape's growth prospects are brighter than any of the other provinces, the capacity of the region's economy to create more jobs depends largely on the small business sector.

But, warns Charl Adams, human resources manager at the chamber, new, inhibitive labour costs could undermine job creation and even force some businesses to close shop. "Job creation is fundamental to economic and socio-political stability,

and the key to growth-oriented distribution of wealth."

"Given that small businesses cumulatively provide more employment than corporates, the key is to create the conditions in which they will grow."

The South African Chamber of Business (Sacob) estimates that the small business sector nationally accounts for a third of gross domestic product and about 45% of private sector jobs.

Mr Adams says "Our message is simple: do not scare off the Ruperts, Ackermans and Wieses of the future - the people who today are doing business on the street but could be running the factories of tomorrow."

"The risk is that this legislation will do just that."

At the moment the proposed measure provides for exemptions for businesses which employ five, or fewer, people.

The chamber wants that ceiling

lifted to at least 50 employees.

Mr Adams says the business community's point of departure is that one of the 10 key goals of Gear is the need for a flexible labour policy.

"If we are going to have a new law prescribing working conditions which are punitive and injurious to small business - and are certainly not 'basic' - then what you are getting is an inflexible labour policy which will stifle entrepreneurship and hamper job creation."

Prescriptive 'jobs bill

Debate on labour Bill rages on

Soultan 17/11/97 (166)
Business concerned over 'rigidities in labour market'

By Amrit Manga
Assistant Editor

AFTER much debate, Parliament finally got around to passing the Basic Conditions of Employment Bill, bringing it closer to becoming law. In fact, it now stands just one step away from being promulgated.

But the debate around the Bill is far from over. And it is likely to continue for months and probably years after President Nelson Mandela finally signs it into law.

Rather than focusing on specific provisions of the law, it will be conducted against the backdrop of the Government's performance at the macroeconomic level.

Business has said that much already. In response to Parliament's vote for the Bill, the South African Chamber of Business commented: "It will be tested against a tough social and economic reality in South Africa."

"Its measure will be whether it contributed to more and better jobs in an increasingly competitive market."

In making this point, business has identified the very essence of the dichotomy dividing opinion on whether it is prudent economic management to enforce statutory minimum employment standards.

It draws into sharp focus the central question of equity and efficiency.

While no-one disagrees there is a need for equity in the labour market, everyone seems to differ on whether that will translate into greater industrial efficiency and therefore more jobs.

Organised business has already formulated its conclusion on the matter. "Certain obligations imposed by the Bill," it argues, "will create further rigidities in the labour market." And that will discourage growth in employment levels.

Implicit in the view of organised commerce is the obvious assertion that given the "rigidities" the law will introduce, statutory minimum employment conditions openly contradict the Growth Employment and Redistribution programme (Gear), whose essential purpose is to create jobs.

The Department of Labour will no

doubt argue the contrary. In its minimum standards Green Paper published as an initial contribution to the debate, the department made it quite clear that existing law had to be changed because it was inconsistent with the country's economic vision.

It pointed out that "many of the standards (prescribed by the old law) are rigid and restrict the productive arrangement of work and working time which hampers productivity and efficiency."

That in itself, it could be argued, retards economic expansion and therefore growth in employment. These divergent views simply illustrate the gulf in the respective views of two of the country's most ardent supporters of Gear – business and the Government.

It is not a division that will be bridged easily. But it does raise questions as to whether South Africa's labour market policy reforms are consistent with its macroeconomic strategy.

Government certainly believes it is. Labour department director general Siphos Pityana is on record as citing Gear to justify labour market reforms such as those intended via minimum standards legislation.

"It is stated in Gear that government will strive for a labour market that is regulated in order to undo the legacy of the past and give rationality to a fragmented labour market," he argued. Pityana can already claim part success insofar as labour market reforms introduced in the form of an improved dispute resolution system has translated into fewer workdays lost through strikes.

Even business would agree that improved stability will find resonance in better growth rates. Whether that will automatically result in higher employment, though, is an entirely different debate.

While reforms in collective bargaining may already be delivering dividends, any desire to measure the consequences that promulgation of the Basic Conditions of Employment Bill will have has to wait.

For now any measure of its potential for success or failure can only be extrapolated from past experiences. This much was apparent during a conference con-



Labour department director-general Siphos Pityana ... government will strive for a labour market that is regulated in order to undo the legacy of the past.

vened by the Department of Labour, the International Labour Organisation and the United Nations Development Programme earlier this year.

It confronted head-on the vexed question: will a more flexible labour market increase the labour absorption capacity of the economy?

If the results of a survey tabled at the conference are anything to go by, greater flexibility being advocated by business will not necessarily translate into higher employment.

The survey found that flexible employment conditions were a notable feature of the South African industry.

More than 85 percent of companies surveyed were found to have employed casual or temporary labour in recent years. A more significant finding was that most workers employed as casuals worked for low wages and in an envi-

ronment where no minimum conditions of employment were enforced.

And if there are any questions about just how relevant these findings are, the survey established that firms most likely to employ flexible labour were the bigger factories, mainly in the steel and engineering sector.

What is relevant to the labour equity-efficiency debate, though, is the fact that conditions described in the survey are precisely those organised business believes are needed to improve the labour absorption capacity of our economy. It effectively wants a labour market tier that is exempted from statutory non-wage costs and minimum standards laws.

Despite the preponderance of these conditions in the South African industry, there is no evidence to support expectations in organised business that

employment will rise.

Official employment statistics for the whole of 1996 show the total number of jobless grew by 280 000 over the previous year. That excludes the 4.4 million who entered the job market between 1980 and 1994 but have yet to be absorbed into formal employment.

New Zealand offers another interesting example in the flexible labour market debate. There, a particularly strong lobby succeeded in having the Employment Contracts Act passed in 1991.

The statute was intended to enhance labour market flexibility, which it was expected would increase non-standard employment.

The results confounded advocates of the law. Government figures showed that between 1991 and 1995, casual or non-standard employment actually declined, falling from eight to five percent of the workforce.

These results suggest that opponents of statutory minimum standards may be overstating the impact that regulated labour markets have on the composition of employment.

If these findings are anything to go by, then there is every reason to remain optimistic that when our new minimum standards law comes into effect, it will, together with other reforms, end discrimination at the workplace, foster equality and in the process enhance productivity.

That will vindicate the Government's labour market strategists.

For now, though, equity and efficiency remain mutually exclusive concepts in the vocabulary of organised business. And as Pityana says, this dichotomy strikes at the very heart of the social partnership.

Differences are more than just technical but also fundamentally political. Resolution of these differences, however, does not reside with either Gear or the Reconstruction and Development Programme.

Instead it is dependent on the commitment to construct a social partnership and seek compromise in the interest of the general social good of the country rather than parochial concerns.

NP proposes amendments to work bill

ET 18/11/97 (166)

THE National Party yesterday placed 20 last-minute amendments to the Basic Conditions of Employment Bill on the order paper of the National Council of Provinces, which is to debate the controversial legislation today

However, it appears that the move will not delay the NCOP vote, the bill's last hurdle in the parliamentary process

NP labour spokesperson Mr Piet Marais said he understood NCOP chairperson Mr Patrick Lekota had two options in dealing with the amendments to refer them to the NCOP labour committee, or to simply deal with them during the debate and subsequent voting on the bill

"I suspect that this is what he will be doing," Marais said

Marais said the amendments were an attempt to limit the "excessive" powers given to the labour minister, to promote thorough consultation, and to soften certain provisions such as those related to moves towards a 40-hour working week

Earlier yesterday the labour committee approved the version of the bill agreed to by the

National Assembly, which sets a 45-hour working week with 40 hours as a long-term goal

Attempts by the DP and the FF to introduce changes were laughed at by ANC members of the committee. The chairperson reminded ANC members that all parties were entitled to propose amendments and to have them considered seriously — Sapa

NP makes late attempt to amend labour bill

BD/18/11/1977

(166)

CAPE TOWN — The National Party (NP) yesterday placed 20 last-minute amendments to the Basic Conditions of Employment Bill on the order paper of the National Council of Provinces, which is due to debate the controversial legislation today.

However, it appears that the NP move will not delay the council vote, the Bill's last hurdle in the parliamentary process.

NP labour spokesman Piet Marras said he had two options in dealing with the amendments: to refer them to the council labour committee, or simply to deal with them during the debate and subsequent voting on the bill.

"I suspect that this is what he will be doing," he said.

"We feel rather seriously about certain aspects of the bill and we felt we should fight

right up to the very end, and that is what we are doing." He said the amendments were an attempt to limit the "excessive" powers given to the labour minister; to promote thorough consultation, and to soften certain provisions such as those related to moves towards a 40-hour working week.

Earlier yesterday the labour committee approved the version of the bill which was agreed to by the National Assembly, which sets a 45-hour working week with 40 hours as a long-term goal.

African National Congress (ANC) committee members had been expected to table pro-labour amendments to the Bill, which would then have had to be referred back to the National Assembly, but this did not materialise.

Attempts by the Democratic Party (DP) and the Freedom Front to introduce changes

were laughed at by ANC members of the committee.

Jacob Dlamini reports that the DP accused the ANC of showing contempt for Parliament after ANC MPs in the committee used their majority might to approve a controversial employment standards bill.

ANC MPs voted out a list of amendments put forward by the DP and the front.

DP spokesman James Selfe had introduced amendments which included a call for the establishment of a regulation review committee to monitor laws passed by the minister. Selfe said the amendment had been a reasoned attempt to introduce further checks and balances into the bill.

However, the ANC shot down the amendment, saying it was unnecessary and would duplicate the work of the National Assembly

and the council. The ANC also rejected changes suggested by FF MP Barend van der Walt, who said the bill would, in its present form, have an adverse effect on small business and the agricultural sector.

The bill is designed to support vulnerable workers through the introduction of basic employment standards and benefits.

Earlier ANC MPs had suggested that amendments proposed by the opposition parties not be considered as they were a waste of time and would not be accepted by the majority party. However, committee chairman Joe Foster rejected the suggestion and said the opposition had a right to have their amendments heard.

Selfe said this had shown that the ANC valued party discipline more than it valued democracy.

Last hurdle today for Mboweni's labour law

ARG 18/11/97(166)

After months of wrangling, the controversial Basic Conditions of Employment Bill is poised to be passed by Parliament.

This comes after approval yesterday by the National Council of Provinces labour committee of the version of the bill agreed to by the National Assembly

African National Congress com-

mittee members had been expected to table further pro-worker amendments to the bill and then refer it back to the National Assembly, but this did not materialise

Democratic Party and Freedom Front attempts to introduce further changes were rejected by the ANC

The National Party yesterday placed 20 last-minute amendments to

the bill on the order paper of the National Council of Provinces, which is due to debate the legislation today

NP labour spokesman Piet Marais said he understood NCOP chairman Patrick Lekota had two options in dealing with the amendments: to refer them to the NCOP labour committee, or to simply deal with them during today's debate.

DUE PROCESS DELAYS VOTE ON EMPLOYMENT BILL

Cape Town — Due process won the order of the day yesterday when last-minute amendments submitted by the National Party (NP) resulted in a vote on the Basic Conditions of Employment Bill in the national council of provinces being delayed until at least today.



Tito Mboweni (pictured), the labour minister, said he was not too concerned about the delay as it was "just procedural" and another attempt at "filibustering" by opposition parties opposed to the bill.

The Democratic Party employed similar tactics in the national assembly recently. Sources said ANC members had agreed to the delay to satisfy NP members who were upset that legal advisers were not on hand on Monday to advise whether the bill was constitutional. — Lynda Loxton

(166) CT (PR) 19/11/97

Labour Bill vote delayed until today

(166)

ET 1911/97

THE Basic Conditions of Employment Bill stumbled at its last hurdle in the parliamentary process yesterday when the National Council of Provinces (NCOP) vote on the controversial legislation was delayed by a day.

The National Party placed 20 last-minute amendments on the NCOP's order paper on Monday, on the eve of the debate on the bill.

The debate went ahead, but the amendments were referred back to the NCOP labour committee, on the recommendation of committee chairperson Mr Joe Foster (ANC).

The committee will meet at 10am today to consider the proposed changes.

In all likelihood, they will be rejected by the ANC members, and the unchanged bill will be voted on by the NCOP this afternoon.

NP labour spokesperson Mr Pieter Marais said yesterday the amendments were an attempt to limit the "excessive" powers given to the labour minister, to promote thorough consultation, and to soften certain provisions such as those related to moves towards a 40-hour working week.

Introducing the debate, Labour Minister Mr Tito Mboweni admitted the bill had

not achieved the most desirable balance between worker protection and labour market flexibility.

While it provided for greater flexibility in the organisation of working time, this was not as significant as initially envisaged.

There had been no significant initiative to house workers close to their work places, Mboweni said, "and in this lies the heart of the bill's inability to promote a greater degree of flexibility."

Labour legislation's capacity to be flexible was related to the country's level of development, he said — Sapa

Employment Bill stumbles during the last stretch

DAY, Wednesday, November 19 1997

3

CAPE TOWN — The Basic Conditions of Employment Bill stumbled at its last hurdle in the parliamentary process yesterday when the National Council of Provinces' vote on the controversial legislation was delayed by a day.

The National Party (NP) placed 20 last-minute amendments on the council's order paper on Monday, on the eve of the debate on the bill.

The debate went ahead, but the amendments were referred back to the council labour committee on the recommendation of committee chair Joe Foster.

The committee will meet this morning to consider the proposed changes. In all likelihood, they will be rejected by African National Congress (ANC) members and

the unchanged bill will be voted on by the council this afternoon.

NP labour spokesman Piet Marais said yesterday the amendments were an attempt to limit the "excessive" powers given to Labour Minister Tito Mboweni, to promote thorough consultation and to soften provisions such as those related to moves towards a 40-hour working week.

Introducing the debate, Mboweni admitted that the bill had not achieved the most desirable balance between worker protection and labour-market flexibility. While it provided for greater flexibility in the organisation of working time, this was not as significant as initially envisaged.

There had been no significant initiative to house workers close to their work

places, Mboweni said, "and in this lies the heart of the bill's inability to promote a greater degree of flexibility".

Labour legislation's capacity to be flexible was related to the country's level of development, he said. "An improved social wage, housing close to work and the Basic Conditions of Employment Bill could have had a different approach to reduction of hours," Mboweni said.

The legislation would, however, modernise and improve labour efficiency. While globalisation meant government had to reposition labour laws to support the country's ability to compete internationally, it did not mean deregulation. "We need to compete, not on the basis of low wages and poor conditions,

but on the basis of increasing our productivity and quality," Mboweni said.

He said it was unfortunate there was not complete consensus on the bill. "Government was trying to draft a statute whose target was vulnerable and disorganised workers and yet we were negotiating with organised employers and organised workers, who were not the prime target of the legislation."

Mboweni said there was much work to be done prior to the bill being promulgated, including an investigation into the impact it would have on small businesses.

Maternity benefits provided for by the Unemployment Insurance Fund also needed to be improved and amendments to the UIF Act would have to be made.

(166)
A massive education campaign was also necessary to ensure everyone knew about changes in the new legislation.

The NP, Freedom Front and Democratic Party (DP) restated their opposition to the legislation. Marais said the bill was too rigid and inflexible to instil investor confidence and ignored business diversity of requirements.

The DP's James Selfe said the bill would cause employers to want fewer workers and ignored concerns of small, medium and micro enterprises.

Ben van der Walt of the Freedom Front said the bill would see management invest in machines rather than people and the pattern of jobless growth would continue — Sapa

ANC thwarts bid to change labour bill

NP's 20 amendments rejected

THABO MABASO
BUSINESS REPORTER

Attempts by the National Party to bring about last minute changes to the Basic Conditions of Employment Bill at a meeting in Parliament today were unsuccessful as members of the African National Congress threw out its 20 amendments

The NP said yesterday during a debate at the National Council of Provinces (NCOP) that the amendments were an attempt to prevent excessive powers given by the bill to Labour Minister Tito Mboweni. The amendments by the NP caused the bill to be referred back to the NCOP's committee on labour.

However, the NP's arguments at the committee meeting failed to impress ANC members. They voted against all of the amendments, sometimes without even discussing them. The committee meeting took less than an hour.

Committee chairman Joe Forster said the NP could table its amendments again next year.

The bill was sent back to the NCOP

ART 19/11/97

'A satisfied workforce is one's best starting point for improving productivity and quality'

later today, where it was expected that the ANC would use its majority to adopt it.

Earlier yesterday Mr Mboweni told the NCOP that the success of the bill would be judged in terms of how successfully it was implemented. Among its achievements was its improvement of enforcement mechanisms.

"The enforcement mechanisms introduced in the new bill do not rely on the criminal justice system. Instead, they rely on the conciliation approaches adopted in the Labour Relations Act and on a system of compliance orders issued by labour inspectors."

Others included the levelling of rights for all workers, the aligning of

(166)
minimum working conditions with the country's level of development and the modernisation of labour legislation

Despite Mr Mboweni's lavish praise, the bill has come under attack from business organisations. They say it introduces First World standards in a country with an economy that is grappling to cope with the intricacies of a very competitive global economy.

The bill establishes minimum working conditions for unorganised workers. These include a 45-hour working week, four months' maternity leave and the prohibition of minors from employment.

Mr Mboweni denied business's claims and said the Government needed to reposition its labour practices to support the country's ability to compete on an international basis.

"A satisfied workforce with basic conditions and reasonable wages is one's best starting point for improving productivity and quality."

Mr Mboweni conceded that the bill had its shortcomings, the first being lack of agreement by business and labour on its contents.

Work bill approved, another to follow soon

JOVIAL RANTAO
PARLIAMENTARY BUREAU

AS LABOUR Minister Mr Tito Mboweni ends the Parliamentary session with the approval of a controversial piece of legislation by elected representatives, he is set to start the new year with an equally controversial bill.

The Basic Conditions of Employment Bill was approved by the National Council of Provinces with 43 to 17 votes. Mboweni is now preparing to table the Employment Equity Bill,

to eliminate the workplace colour bar and gender and disability discrimination. It was approved by the cabinet yesterday.

Mboweni said the bill, dubbed the affirmative action legislation, would be made public in Johannesburg on November 30 and submitted to National Economic Development and Labour Council (Nedlac) for negotiations between government, business and labour.

The new legislation would contain several sections defining unfair discrimination, establish-

ing statutory bodies to monitor equity and setting fines and penalties. Mboweni would not confirm whether the bill would contain racial quotas.

Mboweni expected the bill to "generate a national excitement".

He said the negotiations in Nedlac on the new skills development bill, including the funding of skills training, were progressing well.

It seemed as if it would be finalised soon.

The Employment Equity and Skills Development Bill would

conclude Mboweni's five year programme of action.

The Department of Labour is to hold a summit next week on detailed terms of reference for the task team that would investigate the impact that the Basic Conditions of Employment Bill would have on small business.

Mboweni said if the task team suggested that the legislation be amended, the changes would be made in the new year.

The Basic Conditions of Employment Bill will, once signed into law by President Nel-

son Mandela, introduce a non-negotiable 45-hour working week and improved annual and maternity leave.

Once it becomes law, it would be an offence to employ a child under 15 years of age, or who is under the minimum school-leaving age.

The tabling of the bill has been pre-empted by protracted negotiations between business and labour.

Mboweni was forced to take over the facilitation of the negotiations after talks at Nedlac failed

JOB equity bill gets cabinet green light

BD 20/11/97

Reneé Grawitzky

LEGISLATION to eliminate workplace discrimination and accelerate training and promotion of people from disadvantaged groups was approved by the cabinet yesterday.

The Employment Equity Bill will require employers to develop and present employment equity plans to government within 18 months after the legislation has come into effect.

A refusal to comply with the legislation could result in a Labour Court order or the imposition of fines. Previous drafts of the bill indicated a maximum fine of R1m.

Sapa reports that Labour Minister Tito Mboweni told journalists after the cabinet meeting that the bill, to be released in Johannesburg on November 30 and presented to the National Economic Development and Labour Council (Nedlac), would generate "some national excitement".

An observer said the bill had potential to cause division between white and black business and possibly within labour. The Black Management Forum has expressed concern over a number of aspects in the proposed legislation.

Business SA (RSA) representative Vic Van Vuure said business was disappointed it had not seen the document before it went to the cabinet.

Mboweni said the bill, intended to eliminate discrimination and ensure the implementation of employment equity strategies in the workplace, contained a section on affirmative action, but refused to be drawn on whether this included a quota system.

A draft copy of the bill, which might

have changed slightly before going to the cabinet, indicated that employers would not be obliged to implement quotas or appoint those not suitably qualified for positions. Employers would, however, be required to consult employees and conduct an audit of the workplace in preparation for drafting an employment-equity plan.

This approach was in line with the green paper released in July last year which stated that employers would not have to comply with quotas but would have to set targets and timetables.

Forum president Lot Ndlovu said it was important that government launched an exercise to set targets over a specific time to act as a reference point for companies.

It is anticipated that the bill, which targets blacks, women and disabled people, will require employers to draft plans ranging from one to five years. Such plans, as outlined in the green paper, would include numerical goals ensuring an equitable representation of the target groups in senior management positions. The plan would also include the introduction of various "positive measures" such as education and training, affirmative action to ensure the promotion of suitably qualified candidates and the reasonable accommodation of disabled persons. Other measures would be aimed at identifying and removing barriers to entry.

The bill would exclude the security forces and intelligence services, as well as companies employing less than 50 employees. It is understood intense debate took place during the drafting process.

Continued on Page 2

Job equity

Continued from Page 1

It was unclear to what extent the public service would be covered. Ndlovu said it could be excluded unless the president designated an organ of state as an employer.

The bill would also provide for the establishment of the commission for employment equity. Ndlovu said the fact that it had taken more than a year from the time the green paper was released until the draft bill would be tabled in Nedlac reflected a lack of passion on the part of government to draft legislation in this regard. The forum, he said, would have preferred the bill to be referred to as affirmative action

legislation. It appeared there was a deliberate attempt to avoid using this term and this attitude prevailed throughout the bill.

Mboweni said he anticipated that the legislation, the last of the so-called "Mboweni bills", would go to Parliament some time in the first half of next year. Asked whether he anticipated the bill would meet the same difficulties in Nedlac that the Basic Conditions of Employment Bill had experienced, he replied "We will try to do things differently. But it's quite hard because an unfortunate culture has crept in which it is going to be very difficult to rid ourselves of. And that culture is one where at Nedlac people want to negotiate a law line by line, word for word, comma for fullstop, for everything."

The drafters of the legislation that brought Nedlac into being had said this was never their intention.

"But the practise has crept in, and it's unrealistic of me to expect that negotiations on the Employment Equity Bill will be any different."

BD 20/11/97
(166)

Labour act changes 'could lead to harrowing talks'

Reneé Grawitzky

AN AMENDMENT to the Labour Relations Act (LRA) on extending bargaining councils is likely to lead to protracted negotiations, a leading labour lawyer says.

The head of the labour ministry's drafting team, Halton Cheadle, said at a recent Industrial Relations Association of SA seminar that this would be one of the most controversial amendments to the act and was likely to "take us into another round of harrowing negotiations".

A number of amendments would be tabled in the cabinet early next year and

hereafter referred to the National Economic, Development and Labour Council.

Cheadle said there were several reasons for the proposed amendments. They resulted from drafting failures, institutional and process failures, policy changes and the effect of the constitution.

There were two types of change related to the constitution those to put the act in line with the constitution and those required by the Constitutional Court. Cheadle said this could relate to the litigation the Association of Law Societies had proposed challenging the constitutionality of excluding lawyers from the Commission for Conciliation, Me-

diation and Arbitration (CCMA).

The proposed amendment relating to the extension of bargaining councils was due to policy changes. It stemmed from the cabinet's decision to endorse the labour market commission's recommendations.

The commission recommended in June last year that the act be amended to give the labour minister more discretion in deciding whether to extend bargaining council agreements. In exercising such discretion, the minister would have to consider possible effects on employment.

This recommendation was an attempt to address employer concerns about labour

market flexibility and the broader debate on "government support for labour-intensive production in general, and small (and) medium-sized enterprises in particular".

The act in its current form obliges the minister to extend bargaining council agreements to nonparties in a sector where the parties to the agreement represent more than 50% of the industry.

A number of amendments have been proposed which would affect the operation of the CCMA. These include amendments to enhance the institution's case-flow and others relating to a review of the section on compensation for dismissal which was found to

be procedurally unfair. In terms of section 194 of the act, an employee would receive compensation equal to the remuneration he would have received between the date of dismissal and the last day of the hearing at the commission. However, compensation might not be granted if unreasonable delays had been caused by the employee initiating the case. Cheadle said some commissioners had interpreted this clause creatively.

Proposed amendments that would affect institutional and procedural problems tightened up the registration process for trade unions and employer organisations, and regulated the activity of labour consultants.

(166) BD 20/11/97

talks

IN BRIEF

**Employment bill approved
by Council of Provinces (166)**

CAPE TOWN — The National Council of Provinces yesterday approved the Basic Conditions of Employment bill a day after voting on the legislation was delayed by the National Party's introduction of 20 last-minute amendments.

Eighteen MPs voted in favour of the bill while 17 voted against. The legislation seeks to establish basic employment standards, offer protection to underpaid workers and provide for such as leave and maternity leave and a 45-hour week for all workers except those in certain sectors such as the army and intelligence services.

The approval paves the way for the bill to be signed into law by President Nelson Mandela.

BD 20/11/97

Employment Bill to become law at last

THABO MABASO
BUSINESS REPORTER

The Basic Conditions of Employment Bill cleared the last hurdle on the way to becoming law when the National Council of Provinces (NCOP) adopted it with a clear majority.

The African National Congress used its majority in the council to push through the bill with 43 votes. Seventeen NCOP members, mainly from the National Party, voted against adoption.

Barring any mishaps, the measure will be signed by President Mandela in a few weeks' time and be promul-

gated into law early next year. On Tuesday the NP tried to stall the bill's adoption by proposing new amendments. The NP said the amendments were an attempt to prevent excessive powers being given to Labour Minister Tito Mboweni.

The amendments were rejected by ANC members at a meeting of the NCOP's committee on labour affairs yesterday.

Mr Mboweni told an impromptu news conference after the NCOP's sitting that the adoption was a milestone in the history of workers and provided the framework for the restructuring of the South African labour market.

"The intention of this bill is not to destroy employers, but to provide a basic floor of rights for all workers," he said.

The bill introduces a 45-hour working week, four months' maternity leave and prohibits the employment of minors. Business organisations have said it will increase labour costs.

However, Mr Mboweni will appoint a commission to study the impact of the bill on small businesses. He said that if the commission's report suggested that small entrepreneurs would be hurt by the bill, amendments would be proposed next year.

'Some excitement' awaited over affirmative bill

BUSINESS REPORTER

President Mandela's cabinet has given the go-ahead to Labour Minister Tito Mboweni to publish the draft Employment Equity Bill for public comment and tabling before the National Economic Development and Labour Council.

The draft has been dubbed the

Affirmative Action Bill because it seeks to open the labour market to black people, women and disabled people. Companies who open themselves up to previously marginalised groups will get preference in, for instance, the rewarding of government contracts.

Mr Mboweni said yesterday the bill aimed to get rid of discrimination

in the workplace. The bill will be officially published on November 30.

The minister said the bumpy road travelled by the Basic Conditions of Employment Bill was nothing compared to what the affirmative action was going to go through.

"I expect that this bill will generate some national excitement," he said.

(166)

ARC 20/11/97

ARC 20/11/97

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Mboweni, and the basics of working

NOW that the controversial Basic Conditions of Employment Act has finally made it through Parliament despite continued objections by both business and labour, it would do South Africans well to sit down and reflect on what it really means. **LYNDA LOXTON** of our Parliamentary Bureau maps it out.

A LABOUR Minister Tito Mboweni told the National Council of Provinces last week, the Basic Conditions of Employment Act will "impact on almost every workplace and very many working relationships" and his department would still have its work cut out for it to pave the way for its implementation, possibly in the second half of next year.

The act aims to provide a basic "floor" of rights for all workers, including a 45-hour working week, set rates and conditions for overtime, night and Sunday work, maternity leave and three days family responsibility leave. It also allows for these to be enforced not through the overburdened criminal justice system but through conciliation.

and a half for overtime work rather than time and a third, because "it will hurt small business". At a time when small business is expected to play an important role in job creation, that seems powerful argument. But it has been rejected by unions and government because "the only business they are really talking about is big business, which sees its wage bill rising".

But Mboweni has conceded that there might be adverse effects on small businesses and he has pledged that, before the act is promulgated, he will undertake a thorough study into whether small business could be hurt and take remedial action if necessary. The legislation, he has often said, is not cast in stone and can always be amended.

The Basic Conditions of Employment Act aims to provide a basic floor of rights for all workers. However, neither business nor Cosatu were entirely happy with the final product.

Some have argued that the act is a capitulation to the unions' persistent demands for more workers' rights, but a casual conversation with any unionist will reveal that they are far from happy.

The attempt by the Congress of South African Trade Unions (Cosatu) to slip in last-minute amendments to, among other things, make paid maternity leave a core right, was stymied. This would have made employers, and not the Unemployment Insurance Fund, liable for paying the salaries of women on maternity leave and would have been a "victory" indeed. Some analysts have welcomed the fact

that Mboweni "steam-rollered" the act through parliament after failing to get business and labour to agree on it as a sign that government is taking a firmer grip on the tiller of governance than it has so far. Too much time and effort, they claim, has been spent on getting the two sides to agree on things on which they are diametrically opposed rather than just getting on with doing things.

"While this approach may deny other parties the same degree of consultation as before, it has its benefits in reducing elements of procrastination which have bedevilled the government's ability to run the country more efficiently," said Econometric in a recent bulletin.

But what motivated government to introduce the act and promise even more controversial legislation next year in terms of the planned Employment Equity Bill with its "spectre" of racial employment quotas?

South Africans have perhaps been too busy trying to be part of a rainbow nation to remember the fact that, because of apartheid, this democracy inherited a deeply skewed labour force, with largely untrained, sometimes illiterate, blacks at the bottom and highly-skilled whites (with a sprinkling of blacks nowadays) at the top. In the middle was a grey mass of unmotivated people, kept in line through autocratic management practices. Job security was minimal for most blue collar and manual workers.

The result, far too often, has been poor productivity, workplace accidents and racial tensions on the shop-floor. At the same time, sanctions were lifted and the South African economy was once again exposed to

(166) ET 24/11/97

world trends and pressures. A lot had changed since the last time this country was part of the world scene and it soon became clear that the way industries were run had to change drastically if they were to survive. Agreements to reduce tariff barriers in terms of World Trade Organisation (WTO) obligations and open up the domestic market to foreign competition made change even more important.

Reform of the labour market was, therefore, considered essential by the new government to bring South Africa into line with international labour standards and to provide for the training or retraining of workers to ensure that they could help make South Africa competitive.

According to an International Labour Organisation (ILO) report released last year, South Africa's poor productivity was attributable to outdated management and organisational structures and not necessarily high wages, as alleged by business.

The report also found that working weeks in South Africa were long by international standards — over 48 hours a week on average — and most firms operated on only one shift. It recommended that working hours be reduced and that increased shift work be encouraged by higher overtime rates, not just by regulations.

South Africans perhaps have been too busy trying to be part of a rainbow nation to remember that, because of apartheid, this democracy inherited a deeply skewed labour force.

It said that although shift work was on the increase in South Africa, "industry has a long way to go to attain the level of shift working found in South-East Asian economies." These economies are the ones we are encouraged to emulate in order to stimulate growth and job creation.

The ILO also recommended a move towards more flexible working hours, which has partially been achieved by the inclusion of non-regular workers in employment security protection legislation, which has now been done.

But Mboweni lamented the fact that little progress, as yet, has been made in bringing workers closer to their homes. Most workers, he said, lived in distances from their places of work, often having to get up at 4am to get to work by 7am or 8am. This affected productivity and workplace organisation while government had to subsidise bus fares to get people to work.

The situation had been exacerbated by the shift of many addresses from Johannesburg to Midrand, for example, which posed a whole new set of challenges for residential and industrial planners. So, despite all the reforms already taken and planned, South Africa still has a long way to go before it can claim that it has fair and equitable working conditions for all.

Employment Bill through Parliament

sowetan 20/11/97 (166)
Minister warns, however, a lot has to be done before it becomes law

THE Basic Conditions of Employment Bill, which will introduce a non-negotiable 45-hour working week and improve annual and maternity leave, cleared its last parliamentary hurdle yesterday when it was approved by the National Council of Provinces (NCOP)

A last-minute set of amendments introduced by the National Party, in what it said was a bid to make the Bill more flexible and reduce the regulatory powers of Labour Minister Tito Mboweni, was defeated

The Bill was opposed by the NP, the Democratic Party and the Freedom Front, while the Inkatha Freedom Party joined the African National Congress in supporting it

Mboweni afterwards repeated his warning that much work, including a inquiry into the Bill's impact on small businesses and amendments to unemployment insurance legislation, had to be finalised before the legislation could be promulgated

He said the composition of the

team to conduct the small business inquiry, which will be carried out in cooperation with the Department of Trade and Industry, would be one of the issues discussed at his department's annual planning meeting from today until Saturday

The meeting would also discuss detailed terms of reference and a time frame for the investigation

"We also need to begin to have an idea of what a likely date for implementation (of the Bill) will be," Mboweni said

He said the Bill would make a major contribution towards restoring basic human rights for South African workers, particularly those who were most vulnerable and unorganised. It provided a framework for major restructuring of the labour market

The Bill, which was approved by the National Assembly earlier this month, has been strongly opposed by

organised business, which claims it will lead to major job losses

Yesterday morning the NCOP's labour committee rejected the NP's 20 amendments to the Bill

The NP was supported in the committee on some of its amendments by the DP and FF, but the ANC majority ensured they were all rejected

Committee chairman Mr Joe Foster (ANC) said opposition parties should not feel discouraged, as Mboweni had told the NCOP on Tuesday that Parliament would entertain an amendment to the Bill next year. Their concerns could be addressed then

● The Cabinet yesterday gave Mboweni the go-ahead to publish a draft of the Employment Equity Bill and to forward it to the National Economic Development and Labour Council for negotiation - *Sapa*

Amendments rejected (166)

Sowetan 20/11/97

THE National Council of Provinces labour committee yesterday rejected 20 last-minute amendments, moved by the National Party, to the Basic Conditions of Employment Bill

The legislation, already approved by the National Assembly, is now set to be approved by a plenary committee yesterday afternoon, which will mean the Bill will have completed its passage through Parliament

The NP was supported in the committee on some of its amendments by the Democratic Party and Freedom Front, but the African National Congress majority ensured they were rejected

Committee chairman Joe Foster (ANC) said opposition parties should not feel discouraged, as Labour Minister Tito Mboweni had told the NCOP that Parliament would entertain an amendment next year — *Sapa*.

After the Bill ... what?

BUSINESS criticised it and the Congress of South African Trade Unions welcomed it with some misgivings. But the new Basic Conditions of Employment Bill remains a labour affair in which business is only a passenger.

Although the Bill took two years of negotiation, bickering and tantrums from both labour and business before it was finally passed, much of the debate seemed focused on the demands of unions as opposed to business.

The marches, mass action and demonstrations by labour that punctuated the negotiations were characterised by one accusation – ‘business intransigence’ or an ‘unwillingness to move from its position’.

On its side, as if to show flexibility labour continually claimed to be ‘the only ones to have compromised’ but presented the same demands submitted at the start of negotiations.

The debate was about how much of labour’s demands business was willing to accept, and business played right into the hands of the unions by rejecting workers’ demands as opposed to putting down their own on the table.

This situation saw the only demands on the table being those of labour, and counterproposals from the Government’s draft Bill. It was not surprising then that the compromise to break the impasse was reached not between business and labour but between the state and labour.

Compromise agreement

Although the tripartite alliance would prefer to say the compromise agreement was reached between alliance partners, it is common knowledge that it was the Government that proposed a 45-hour working week.

Labour had demanded a 40-hour week phased in over not more than five years and got a 45-hour working week, but with a promise of a 40-hour week in the near future. The new amendments to the Bill proposed the “setting in place of procedures to achieve a 40-hour week”.

There is also a maximum overtime of three hours a day and 10 hours a week paid at one-and-a-half times the normal rate, and a daily rest period of at least 12 consecutive hours.

Family responsibility leave has also become a reality, with workers getting three days off after four months in employment, and Sunday work paid at double the normal rate.

It was also the Government that proposed four months’ unpaid maternity leave as opposed to labour’s six months, with four months paid.

The model for the variation of employment standards – the biggest irritation for labour – was also contained in the draft Bill.

What labour ended up with was four months’ paid maternity leave and an employment variation clause that gave the Minister of

Sowetan 20/11/97
Labour has certainly registered a victory with the Basic Conditions of Employment Bill – but how is business going to cope? **Abdul Milazi** explains the situation...



Flashback ... A South African Democratic Teachers Union protest against the Basic Conditions of Employment Bill in Pretoria earlier this year.

Labour powers to replace or exclude any basic conditions of employment for any category of employers or employees.

Basic conditions may be varied by individual or collective agreement or by the minister.

What business got out of the whole process was expressed best in a South African Chamber of Business statement a few days before the Bill was promulgated. “The day it becomes law, Sacob will urge its members to comply. But the effect of the law is another matter”.

Sacob and Business South Africa have argued that the new legislation will increase the cost of labour and that, in turn, this will lead to job cuts and high costs to consumers for labour-intensive products. There is justification in this concern as local companies face harsh competition in a globalising world market.

Commonsense demands that the Government should have an economic policy that will improve growth. That this policy should have job creation as its main focus is asking too much.

Although the labour movement and the Government would like to see the imbalances of the past addressed, and in this light see South Africa developing outside the demands and pressures of globalisation, business has to compete with international companies in the harsh global market.

Globalisation involves the opening of bor-

ders and deregulation, and has been the concomitant policy choice which contributed most to the growth of world markets.

It plays a major role in shaping business strategies in the new competitive context of business, and this also means a change in how work and production is organised.

Even the International Labour Organisation acknowledged in its latest report that the shop floor had changed, and is now driven by the movement of money and assets, new methods of production and innovative approaches to human resource development.

Reduced intervention

It further foresees reduced government intervention in economies, greater independence for companies and increased competition for jobs and investment.

The free movement of money and assets means that a variety of investment options now exists globally for businesses previously limited by national horizons. This also means that local companies will face fierce competition from foreign ones which enjoy more relaxed economic and labour policies in their countries.

Local companies, especially small and medium enterprises, will be at a disadvantage as they have to juggle social responsibility and improved productivity.

New labour bill to be introduced

(166) *Staw* 20/11/97
BY JOVIAL RANTAO
Political Correspondent

Cape Town - Labour Minister Tito Mboweni is set to start the new parliamentary year with the controversial Employment Equity Bill.

The Basic Conditions of Employment Bill was given the nod by the National Council of Provinces by 43 votes to 17, and approved by the Cabinet yesterday.

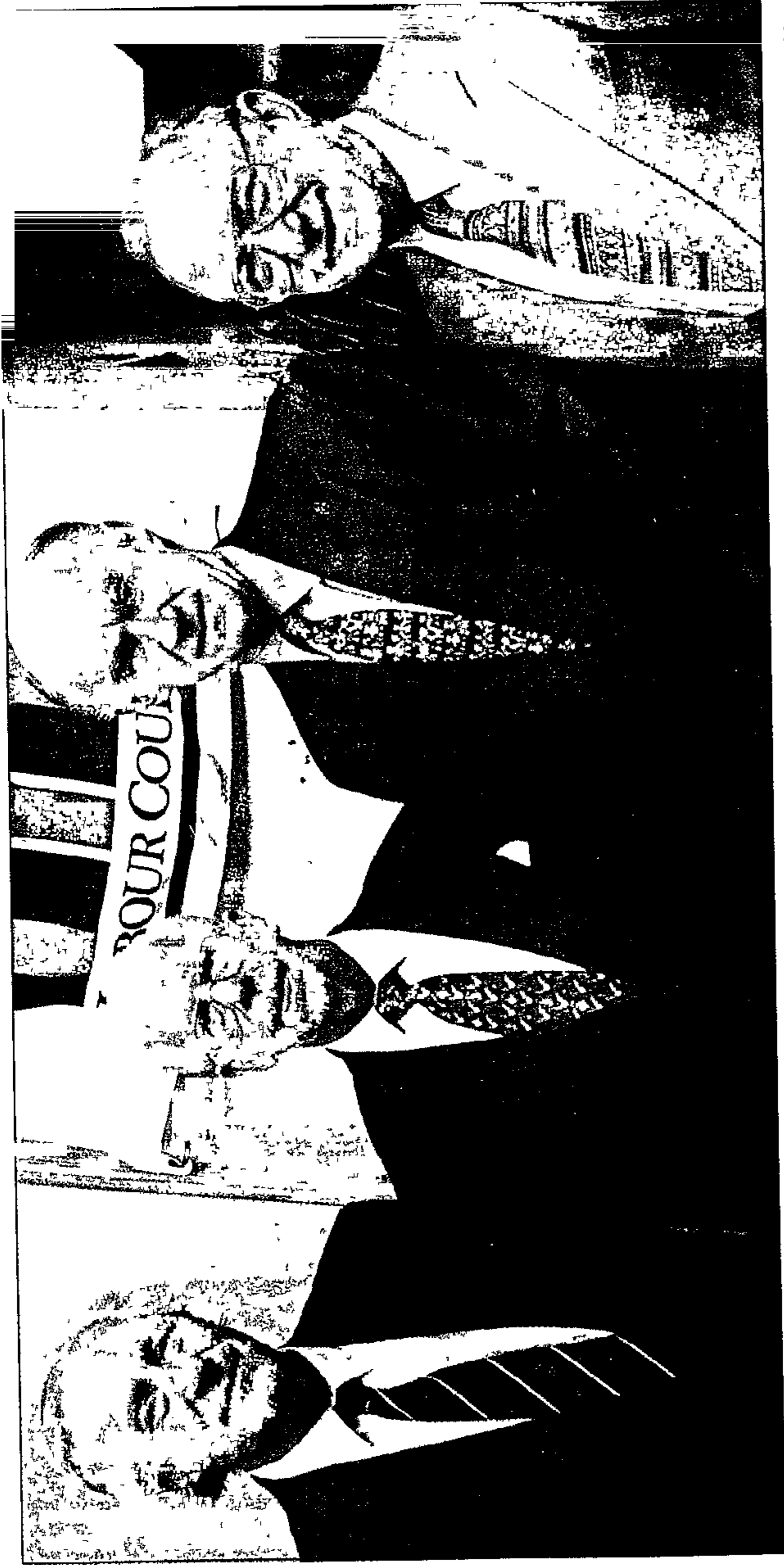
Now, Mboweni is preparing to table the Employment Equity Bill, which seeks to eliminate the workplace colour bar, as well as gender and disability discrimination.

Mboweni said the bill, dubbed the affirmative

action legislation, would be made public in Johannesburg on November 30 and then submitted to the National Economic Development and Labour Council for negotiations between the Government, business and labour.

The Department of Labour is to hold a meeting next week to formulate detailed terms of reference for the task team that will investigate the effect that the Basic Conditions of Employment Bill will have on small business.

It will introduce a non-negotiable 45-hour working week and improve annual and maternity leave.



NEW ERA: Present at the opening of the new Labour Court in Cape Town yesterday were (from the left): Mr Justice John Myburgh, Judge President of the Labour Court and Constitutional Court judge, Mr Justice Richard Goldstone, Mr Justice Gerald Friedman, Judge President of the Cape, Mr Justice E L King. **PICTURE: THEMINKOSI DWAYISA**

Short tenure threat to independence — labour judges

ET 21/11/97

RONALD MORRIS
JUSTICE WRITER

THE independence of the Labour Courts required that its judges be given lifelong tenure, similar to High Court judges, and not be appointed on the present fixed term of 10 years.

Mr Justice John Myburgh, Judge President of the Labour Court, made this point at the opening of the Labour Court in Cape Town yesterday

While Labour Court judges had the same powers, and were appointed on the same terms and conditions as High Court judges, the president appointed them for a fixed term.

The judges have recommended that the Labour Relations Act be amended to give them lifelong tenure, Judge Myburgh said.

He also recommended that the Cape Town Labour Court adopt a system whereby law graduates are appointed as judges' clerks for a

year before moving on to do their articles.

The idea originated in the Transvaal Provincial Division of the High Court where judges' clerks were generally found to be underqualified and undertrained while there were a large number of law graduates unable to find work.

A solution suggested was to upgrade the post of judges' clerk in the Labour Court to that of judge's associate with a minimum qualification of an LLB degree that would

carry a salary almost double that of a judge's clerk. Training would be provided.

Three large law firms in Johannesburg were approached to participate in the scheme. When the firm had chosen its short list of candidate attorneys, judges wanting an associate appointed the following year, would participate in the selection process. Graduates would serve a year as judges' associates and then do their articles with the participating law firms.

The advantage to the Labour Court would be the appointment of high-quality associates committed to legal careers while the law graduates are guaranteed articles at the end of the year. The law firm gets a better qualified article clerk, someone who will have learnt about labour law, law of evidence and civil procedure.

Judge Myburgh said there was no reason why a similar arrangement could not be made with law firms in Cape Town.

Finding 'could affect labour conditions' (166)

Reneé Grawitzky 21/11/97

A RECENT Labour Appeal Court finding that a company discriminated against certain groups of employees by not allowing them to join a traditionally white, monthly-paid staff benefit fund could have "profound implications on the way conditions of employment were structured", a labour law seminar heard yesterday.

Addressing delegates at the eighth Jutta's labour law seminar in Johannesburg, labour lawyer André van Niekerk said this decision, handed down last month, could in particular affect the way in which employment conditions relating to retirement funds were structured.

He cautioned that employers might be forced to review current bargaining agreements which differentiate between those paid on a weekly, hourly or monthly basis in the granting of employment conditions.

In the case of Leonard Dingler Employee Representative Council & others v Leonard Dingler (Pty) Ltd & others, the applicants argued that the exclusion of weekly-paid employees from membership of a pension fund — open for membership only to monthly-paid employees — amounted to discrimination on the grounds of race.

Van Niekerk said the employer argued that this was not true and the question of differentiation was based on pay.

He explained that the company, in its employment conditions, required employees to join one of three retirement benefit

funds. Pension fund members were all black weekly-paid employees while members of the staff benefit fund, with four exceptions, were white. The provident fund — which was negotiated between the union and company — had weekly- and monthly-paid employees as members.

The dispute arose when some employees requested to join the staff benefit fund and the company refused because membership was only open to monthly-paid employees. The employer contended there had been no discrimination, direct or indirect, because the refusal to admit the workers to the benefit fund had been on account of their status and not on account of race.

The applicants challenged that there was a distinction between weekly- and monthly-paid status and alleged that as a rule blacks were first employed on a weekly basis and thereafter "promoted" to monthly-paid status. Whites, on the other hand, were immediately employed on a monthly basis. Further the company did not require or offer membership of the staff benefit fund to black monthly-paid employees.

"In other words, even if the criteria of monthly- and weekly-paid status were valid criteria for membership of the respective pension funds, the company failed to apply the rules of the staff benefit fund consistently." On that basis the court found the company had directly discriminated against black monthly-paid employees by treating them differently to white monthly-paid.

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Labour act to star on SABC

CT (BR) 26/11/97 (166)

Johannesburg — The labour department and the SABC would formally launch today a television drama series on the new Labour Relations Act, Paula Magagula, a spokesman for the labour department, said yesterday

Jerry Mojatladi, the head of communications at the labour department, said the television

series would dramatise conflict resolution mechanisms with a special focus on the rights and obligations of workers and employers

Meanwhile Tito Mboweni, the labour minister, will announce the Employment Equity Bill at a media briefing in Pretoria today — Frank Nxumalo

EMPLOYMENT *Equity quotas ruled out in favour of 'consultation'*

Mboweni unveils equity bill

FRANK NXUMALO

LABOUR CORRESPONDENT

Pretoria — Tito Mboweni, the labour minister, yesterday unveiled the Employment Equity Bill, which seeks to eliminate unfair discrimination and introduce a legal framework for affirmative action.

The bill was approved by the Cabinet on November 19

The minister said recent statistics emphasised the need for specific programmes to redress workplace imbalances.

He said the bill would balance self-regulation by employers with meaningful monitoring and enforcement of government employment equity practices and policies

"This balance is captured in three key areas," Mboweni said "First, the bill prohibits unfair discrimination on the grounds outlined in our constitution

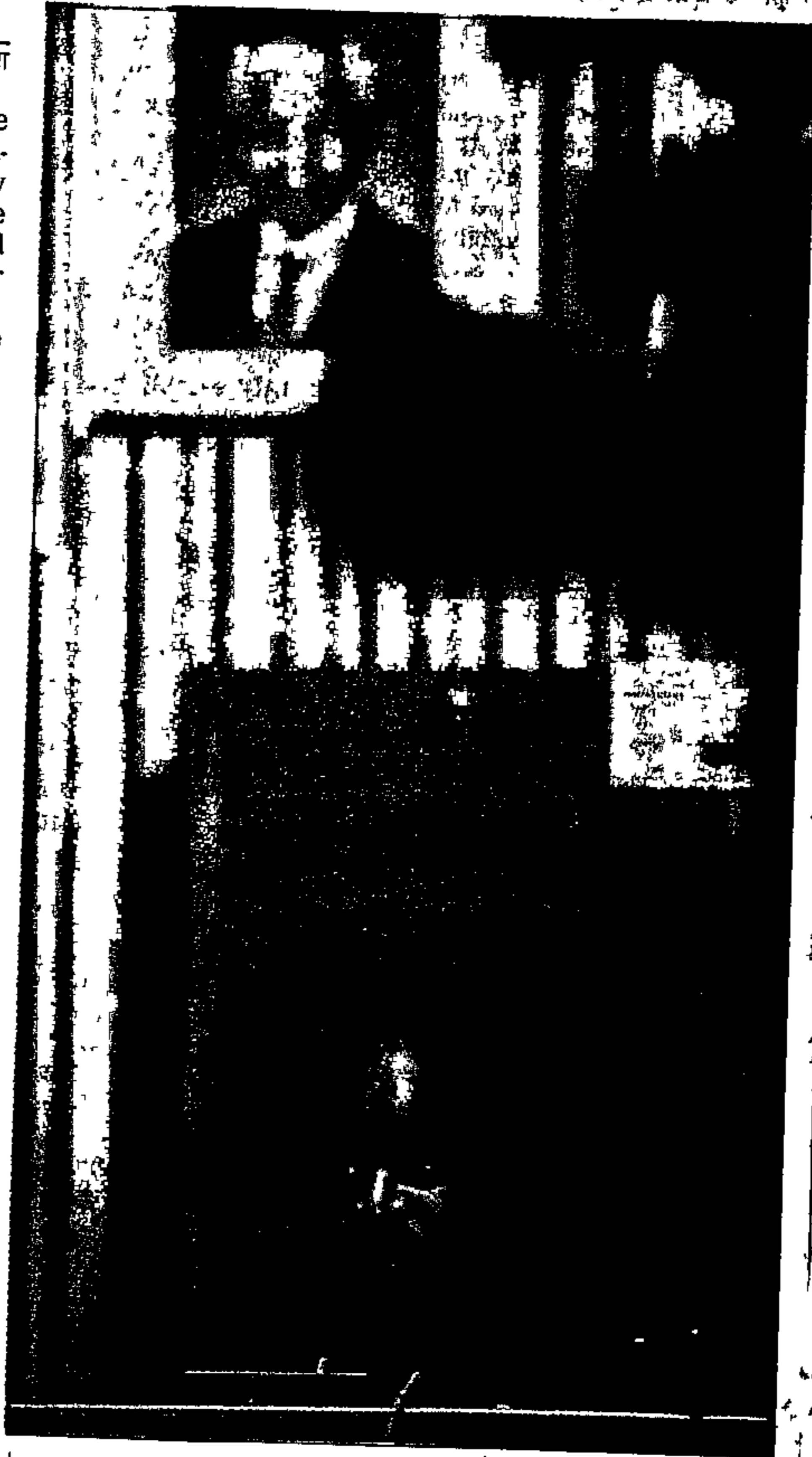
"Second, the bill requires all companies employing 50 or more people to develop equity plans. These plans should state how the company intends removing discrimination in the workplace and how and by when they plan to achieve a diverse and representative workplace," he said

"Third, it has appropriate enforcement measures and advisory mechanisms to ensure its effectiveness"

Mboweni said the bill did not impose quotas for the representation of disadvantaged groups, including Africans, Coloureds, Indians, women and disabled people, but laid the basis for consultation between employees, employers and trade unions

He said the bill also provided for the establishment of a Commission for Employment Equity, an advisory body to the labour minister with representatives from business, labour and the government, whose chairman will be appointed by the minister

Mboweni said the days of



REDRESSING IMBALANCES *Tito Mboweni, the labour minister, unveils the new employment equity bill* PHOTO: JOHN WOODROOF

ET(BA) 27/11/97
job reservation were now over.

"We make no apology for this bill favouring the previously disadvantaged, Africans, Coloureds and Indians, as well as women and the disabled, we must level the playing field," Mboweni said

He said he hoped all employers and workers who were

prepared to embrace the future would welcome the bill.

"There are sound economic reasons for them to do so," Mboweni said. "Every time we exclude someone from employment simply on the grounds of colour or gender or disability, we are throwing away our country's best resources, our people."

Employment act 'open for revision'

ROY COKAYNE

(166) (166) 27/11/97

Pretoria — While the labour department was committed to the Basic Conditions of Employment Act, it would revise it if there was "compelling evidence of its negative impact on efficiency or equity", Siphso Pityana, the director-general of the department, said at the opening of the EBM Research Conference yesterday

Pityana said the labour department would be inviting proposals for any such studies that could assist his department in further refining the act

He said such studies needed to focus on certain trends the growth of atypical forms of work, which tended to exploit unorganised workers; the impact of reduced working hours, the impact of the new overtime rates; restrictions on child labour; and the removal of the prohibition of Sunday work

"We will be interested to monitor the impact on vulnerable workers themselves and on small business," he said in an opening address at the conference. The conference focuses on research

economics, business management as well as manpower management

Pityana said it was the labour department's view that the primary aim of the act was to promote equity and welfare among the most vulnerable workers while other policy instruments were needed to boost efficiency

"Often many commentators, by focusing only on the Basic Conditions of Employment Act, would like to have others believe that ours is a department that is completely oblivious to the efficiency needs of the economy, which entail the need to promote economic growth and employment in the context of a competitive national and world economy"

Pityana added that the question should focus on how both flexibility and welfare could be promoted "as mutually compatible objectives in restructuring the workplace and enhancing productivity", rather than on how to achieve flexible labour markets regardless of the outcomes in terms of its impact on the welfare of workers

Job equity bill 'to ensure fair deal'

Renee Grawitzky

BUSINESSES and employees would be encouraged to co-operate in drawing up employment equity plans without government intervention, under an Employment Equity Bill that was published yesterday.

While the bill focuses on self-regulation, it subjects employers to penalties for noncompliance.

The bill will require about 10 000 companies employing 50 or more people to develop employment equity plans. These plans will have to outline methods to remove discrimination and ensure the creation of a more diverse and representative labour force.

Employers would have to submit plans within 18 months of the legislation coming into effect and thereafter on a yearly basis until they achieved their goals.

The department said that employees and trade unions with an interest in transformation should monitor enforcement of the legislation.

Failure to comply with the proposed legislation could result in companies being disqualified from bidding for state tenders; facing hefty fines or even Labour Court orders to ensure compliance. Disputes would be referred to the Commission for Conciliation, Mediation and Arbitration.

The bill, in line with the spirit of the Labour Relations Act, promotes the development of plans within structures such as workplace forums and trade unions.

Labour Minister Tito Mboweni said the bill was not designed to bar the promotion of white males, nor encourage token appointment of blacks, women and disabled people into management positions. Labour department equal

opportunities director Loyiso Mbabane said it was also "not about grabbing hobos and making them into MDs". The purpose, Mboweni said, was to ensure all workers got a fair deal when it came to hiring, training and promotion and ultimately to "bury the industrial colour bar in practice, not just in our constitution".

The bill aims for numerical targets in an equity plan. It also provides for the creation of a Commission for Employment Equity consisting of a chairman, appointed by the minister, and eight part-time members from the National Economic, Development and Labour Council. The commission will advise the minister on codes of good practice and will also recommend guidelines to prepare equity plans.

BD 27/11/97

Picture: Page 3
See Page 16

ANALYSIS

Organisations not convinced by government's arguments

THE release of the Employment Equity Bill yesterday raises crucial questions about whether it alone can reduce inequalities and ensure increased efficiencies and jobs in an increasingly competitive climate. Implementing a combined strategy of affirmative action and ensuring workplace equity is not without conflict. However, government believes there are sound political and economic motivations for the legislation.

From a political perspective, the costs that might be incurred as a result of the new laws could be a small price for business to pay to reflect its stated commitment to redressing past injustices. Any opposition to the legislation could be viewed as business — again — not supporting government's transformation agenda.

The legislation, and the Skills Development Bill currently under discussion, could have positive economic consequences in that they could provide employers with the type of workforce and organisational structure which is necessary to compete in the global economy.

The cut-throat competition of globalisation could, however, place an employer between a rock and a hard place in trying to meet two apparently divergent objectives — workplace equity and competitiveness.

Fundamental to government's whole approach to the bill is the premise that jobs will be available.

Under apartheid, white males benefited by having easy access to jobs even if, sometimes, they were not qualified, and this propagated inefficiencies in the economy.

The labour department argues that the promotion of employment equity is desirable both on equity and

**New labour legislation unveiled yesterday will force organisations to once again revise employment policies, writes
Reneé Grawitzky**

efficiency grounds as it could "transform the labour market, create labour market security and maximise economic competitiveness".

The department believes that upgrading skills, improving access to jobs, occupations, training and opportunities for promotion advances all members of the workforce and makes it possible for them to achieve maximum productivity and efficiency.

"On a wider scale, the elimination of discrimination raises economic efficiency throughout the economy by ensuring a more rational allocation of labour resources," it says.

Business is not altogether convinced of this argument and largely supports the Malaysian approach, where, to an extent, empowerment came about as a result of economic growth.

This brings us back to the old argument of whether Labour Minister Tito Mboweni's five-year plan to restructure the labour market will facilitate or impede economic growth — and which process comes first.

The bill challenges the more narrow notions of affirmative action and adopts a more systematic approach to developing and providing opportunities for all. As one academic says, it is "not a window-dressing approach to transformation".

Durban-based consultant Pat Stone endorses this view and says the bill is not a "numbers game but is about growing and developing people". This will not happen overnight and will require a commitment by current incumbents to train and develop blacks,

women and the disabled.

The reality, he says, is that, under affirmative action policies, people are being appointed and given the trappings of office but are being left to sink or swim.

This is partly as a result of the fact that a large group of people in relatively senior positions relish the self-fulfilling prophecy that the previously disadvantaged will not "make it".

Another important point is that the bill's underlying premise that the old regime will effectively train itself out of jobs increases the "old guard's" vulnerability and economic insecurity.

This scenario becomes more problematic in the context of a shrinking economy and the continued increase in unemployment.

Such pressures could lead to half-hearted attempts to implement legislation in order to "let the system fail".

The bill, acknowledging potential pitfalls, moves from the premise that employment equity plans should be negotiated within organisations and companies.

"The only way we can come through this is by open, honest debate about what is achievable," Stone says.

An employer source says there are fundamental elements in the bill which make it unworkable. Business was not opposed to the underlying principles, but believes achieving them could prove problematic.

Institute for Personnel Management president T-

isetso Tsukudu says it will reflect poorly on business if it complains about the bill. Business has had a long time to practise affirmative action since the days of black advancement and the Sullivan code. He says people tend to focus on the negatives and not the positive outcome of what government is trying to promote. The benefits are that business will have the correct and well-trained people to deliver profits.

The legislation is meant to unite and encourage business to utilise their human resources effectively, he says.

Employers with more than 50 employees face a number of administrative burdens to audit the workplace, review current policies and submit reports to government on equity plans and yearly progress towards achieving the goals of such plans.

The employer source said business was concerned that this legislation, the fourth set of labour laws tabled in two years, would place additional burdens on small to medium-size businesses which did not have the capacity to comply with all the obligations of this and other legislation at the same time.

The source said this, plus punitive fines brought a certain level of negativity to implementation.

Other practicalities around enforcement had to be addressed. "How will inspectors judge plans in different sectors?" he asked.

However well-meaning this legislation, discussion could become bogged, down which could prove unfortunate as the legislation seeks to ensure self-regulation.

BO 27/11/97
(166)

EMPLOYMENT EQUITY BILL

(73)
166
(178)

Affirming a fait accompli

FM 28/11/97
Business won't oppose Bill but would have preferred incentive approach

Bowing to the inevitability of legislated affirmative action, Business SA (BSA) says it will approach negotiations on the Employment Equity Bill in a spirit of optimism

Despite an earlier bruising for opposing the new Basic Conditions of Employment law, BSA will seek consensus with labour and government over the Equity Bill when Nedlac begins haggling in late January, says BSA social policy vice-chairman and Sanlam human resource GM Vic van Vuuren

Labour Minister Tito Mboweni was expected to unveil the Bill this week, after his department scurried to pull back a version inadvertently released by the government printer last Friday. It is understood, however, that the core provisions are basically the same.

The Equity Bill's key aims are to eradicate discrimination in the workplace, and speed up the training and promotion of the formerly disadvantaged.

Described by the Labour Department as "enabling and user-friendly," the Bill requires employers and employees in firms with a staff of 50 or more to negotiate equity programmes. These targets — as opposed to fixed quotas for the hiring of blacks, women and the disabled — must be presented to the department within 18 months of the law taking effect.

Contraventions could lead to an order from the Labour Court or fines of between R500 000 and R900 000. Policing will be carried out by a departmental inspectorate.

Though BSA opposed the Employment Equity Green Paper when it appeared last year, Van Vuuren says affirmative action is necessary given past discrimination.

"However, we felt it should instead take the form of codes of best practice, incentives and encouragement, as there is already enough union and other pressure," he says. "We will not oppose the legislation, but we do have a problem with the big stick approach, we see training and development of people as key to the success of employment equity."

There has been a progressive increase in the number of companies with affirmative action policies, says FSA-Contact. This year it found an estimated 75% of companies sampled had adopted one.

Amarnath Singh

Sacob hails bill but fears for small firms

CT (BR) 28/11/97 (166) (RS)

FRANK NXUMALO

Johannesburg — The South African Chamber of Business (Sacob) yesterday welcomed the primary objectives of the Employment Equity Bill announced by Tito Mboweni, the labour minister, on Wednesday

Sacob said the elimination of workplace discrimination and the achievement of a more diverse workforce were "commendable ideals"

Sacob "noted with approval" that "no quota system was proposed, nor was there any obligation to appoint unqualified or unsuitable people or create positions to further affirmative action"

The umbrella business organisation also welcomed the fact that it was not the intention of the bill "to exclude non-designated groups from employment"

However, a Sacob spokesman questioned the ability of small

businesses to comply with the provisions of the bill and the capacity of the department of labour to enforce it.

"In addition, the bill mooted 'exceedingly punitive' fines of up to R800 000 for transgressing firms which, when compared with penalties imposed for more serious breaches of the law, were 'tantamount to turning an employment offence into a major crime'

"What the bill effectively seeks to do is to create a fully representative workforce in all occupational categories within five years. This is unrealistic, given the current levels of education and skills," said Janet Dickman, Sacob labour affairs and social policy manager

Meanwhile, Cosatu deputy general secretary Zwelinzima Vavi said the labour federation "fully supported" the bill as it "broadly captured" the aspirations of labour

Bill's fines 'punitive'

Reneé Grawitzky

ALTHOUGH organised business and labour said yesterday they supported the Employment Equity Bill's objectives, business said it was concerned that companies not complying with the legislation could face "exceedingly punitive fines" of up to R900 000.

The SA Chamber of Business said when compared with penalties imposed for more serious breaches of the law, such fines were "tantamount to turning an employment offence into a major economic crime".

In backing the bill's aims, Federation of Unions of SA general secretary Chez Milani said it was essential that there were "necessary checks and safeguards" to stop "reverse discrimination" and nepotism taking root in the workplace in the guise of employment equity. Fedusa would actively ensure that employment equity was "truly equitable", he said.

Business SA (BSA) spokesman Vic van Vuuren said it was necessary to address past imbalances and eradicate all forms of discrimination.

Newly appointed BSA chairman Dorian Wharton-Hood said points in the bill's favour were that there was no obligation to appoint unqualified and unsuitable people or to create new positions to further affirmative action.

□ Wharton-Hood, who is Liberty Life vice-chairman, was elected BSA chairman on Wednesday night and replaces Iscor's executive chairman Hans Smith.

BD 28/11/97

Pityana may look again at Employment Act

(166)
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28/11/97

LABOUR department director-general Siphon Pityana said this week that he would consider revising the controversial Basic Conditions of Employment Act, recently passed by Parliament, if compelling evidence of its negative impact on efficiency or equity should be presented

Opening the National Productivity Institute's (NPI) annual economics, business management and manpower management (EBM) research conference at the Pretoria Technikon, Pityana said the department would be inviting proposals for studies that could assist it in further refining the Act

"The issues in this respect are many and they relate to (work) trends which exploit unorganised workers,

the impact of the reduction of work hours, the impact of the new overtime rates, restrictions on child labour, the removal of the prohibition of Sunday work and so on," Pityana said in a statement released in Cape Town

"We will be interested to monitor the impact on vulnerable workers and on small businesses as well," he said

The department was part of a government that represented the interests of the most vulnerable in the economy

The Government was elected on a mandate to advance the interests and welfare of the poor, he said

"We will thus not shirk our responsibility to promote and advance our actual or perceived mandate

"We are conscious, nonetheless, that

we need to do this responsibly and in a manner that does not compromise our ability to advance these very same interests in the long term, hence our concern for the political and economic sustainability of the policies we initiate"

The Basic Conditions of Employment Act and the soon to be released Employment Equity draft Bill were aimed at promoting equity and welfare, but with due regard to efficiency considerations

"It is important that commentators see the policy initiatives emanating from our department as a package of measures aimed at resolving pressing problems in the labour market that relate to the need to promote employment, productivity, equity and welfare" - Sapa

Thumbs-down given to attempt to exclude business and labour

Reneé Grawitzky (166)

A PROPOSAL to exclude labour and business from the initial phase of drafting an employment strategy for debate at next year's presidential job summit has been rejected by the National Economic, Development and Labour Council (Nedlac)

The executive council, which met on Friday, was presented with three options on how progress towards the job summit should unfold

The proposal that government produce a draft employment strategy by the end of February to form the basis of negotiations with labour and business was rejected. Instead the executive council endorsed an "interactive approach" enabling labour, government and business to produce

and, after that, creating an environment conducive to job creation. It was agreed during lengthy debate within the Nedlac management committee that parties would have to concentrate on job creation as a means of addressing the problem of unemployment and underemployment. Constraints limiting employment opportunities would have to be identified and addressed

with three options on how progress towards the job summit should unfold

The intention is that out of this process the parties would agree on proposals to be taken to the job summit, to be held within the first six months of next year. This process would focus on two key areas, namely developing key employment-generating opportunities

their own draft employment strategies by the end of February, which would then form the basis of negotiations between them

and, after that, creating an environment conducive to job creation. It was agreed during lengthy debate within the Nedlac management committee that parties would have to concentrate on job creation as a means of addressing the problem of unemployment and underemployment. Constraints limiting employment opportunities would have to be identified and addressed

Bill heralds change

THE ARCHITECT of apartheid, Dr Hendrik Verwoerd, once said blacks should not expect to be anything but hewers of wood and bearers of water. Labour Minister Tito Mboweni is changing that - radically.

The launch of the Employment Equity Bill last week signalled the beginning of the final phase of Mboweni's transformation of the job market, which began with the Labour Relations Act passed last November.

The move also heralded sweeping changes that would see the eradication of inequalities in the workplace, created by the systematic discrimination against blacks by the National Party government and so well implemented by big business.

It is also bringing back the controversial debate on affirmative action, which has been seen as reverse discrimination by the white population, and carries a stigma for those blacks who want to be recognised for their abilities as opposed to their colour.

Mboweni did not pull any punches when he announced his intentions, saying he made no apologies for the fact that the Bill favoured blacks. He argued that whites still earned more than blacks who performed the same job and with the same qualifications.

Mboweni said 50 percent of the country's income went to whites, while 65 percent of blacks lived in abject poverty. Whites continued to dominate high-paying jobs, while blacks did menial jobs.

His main argument was that this skewed income distribution and inequality did not happen by accident, and has to be addressed through government intervention.

The new legislation uses a stick-and-carrot approach - employers who comply will be eligible for government tenders, while those who do not comply will not qualify.

While all employers will be required to ensure that their policies and practices are not discriminatory, those with fewer than 50 employees will be exempted.

Mboweni, however, said that did not stop small companies from voluntarily complying with the requirements of the Bill, and from implementing their own affirmative action plans.

The Central Statistics Service estimates that there are 10 000 companies employing more than 50 people.

The Bill is specific in its requirements, and demands that these companies prepare a profile of their work force, review current employment practices and policies, and prepare and implement an employment equity plan.

Companies will also be required to submit a summary of their employment equity plans to

Although the Employment Equity Bill is set to address past injustices, it does not address black-on-black discrimination, explains **Abdul Milazi**



Labour Minister Tito Mboweni ... transforming the job market.

the Department of Labour, and report annually on the progress of their programme.

The Bill does not impose quotas, but lays the basis for consultation between employers, employees and trade unions. "This will enable the parties themselves to set goals and equity measures which are appropriate."

Collective

It builds on the role of existing collective bargaining and labour market institutions such as the Commission for Conciliation, Mediation and Arbitration, and also facilitates the establishment of a commission for employment equity.

The proposed commission will be made up of people from women's organisations, the disabled and the National Economic Development and Labour Council.

Mboweni said he does not see affirmative action as a permanent feature of the labour market. "That is why the Bill provides for a comprehensive review of compliance with its objectives and progress towards employment equity within seven years after it becomes law."

"However, we are not so naive as to think that so many centuries of oppression and discrimination can be eliminated in seven years. For as long as discrimination exists, so will

measures to prohibit it."

The Bill is the culmination of a consultative process which began in 1995 with the appointment of the Affirmative Action Development Forum, which drafted the Employment and Occupational Equity Green Paper last July.

Mboweni said some companies have addressed the racial ratio problem, but in a token way. "We do not want employers to make token appointments of black people, women and the disabled."

"We are not asking them to employ incapable people, but we are demanding they recruit from the widest possible pool of suitable candidates."

And we are asking them to go the extra mile in the interests of our country."

Mboweni said there was a sound economic reason for employers to accept the Bill.

"Every time we exclude someone from employment simply on the grounds of colour or gender or disability, we are throwing away our country's best resources, our people."

The Bill is almost watertight when it comes to discrimination by whites against blacks, but it still remains to be seen whether it will be able to address black-on-black discrimination because of its subtlety.

Contrary to popular belief, whites seem to enjoy more freedom, respect and promotion in black companies, especially at the lower levels. And blacks find it easier to get promotion in white companies. In black companies, discrimination is usually based on friendship or on the low esteem in which black managers regard their black subordinates.

However, the Bill nevertheless does make great strides in addressing South Africa's main problem - that of inequality.

Its effectiveness will, however, depend on the power of unions as the legislation's enforcement mechanism leaves the employment equity plans and their implementation to employers and workers.

INDUSTRIAL RELATIONS

CT (BAR) 5/12/97

Dawning of workplace equity

FRANK NXUMALO

Johannesburg — The Employment Equity Bill, the last of the big four "Mboweni bills" unveiled last week by Labour Minister Tito Mboweni, marks, albeit imperfectly, the dawn of an era of equitable industrial relations in a South African labour market distorted by decades of job reservations for whites and the pernicious victimisation of black workers, especially Africans, at the workplace

The department of labour quotes the Central Statistical Service as saying 10 000 South African companies will fall under the category of "designated companies" — those that employ 50 or more workers and will be required by the new labour law to submit equity plans within 18 months after its promulgation

That the bill seeks to redress the imbalances of the past dispensation by giving a legal framework to affirmative action or the accelerated advancement of designated groups is not "reverse discrimination", as self-appointed experts would have us believe

This is evident in the preamble to the gazetted version by Mboweni, which says: "This legislation is drafted with a view to advancing those groups who have been disadvantaged as a result of discrimination caused by laws and social practices, and not with a view to seeking retribution for past injustices"

Affirmative action could go a long way in bridging the apartheid wage and grading gap and accessing mainstream economic participation by the black majority, including Africans, Indians, coloureds, women and the disabled

Black Management Forum (BMF) representatives point out, perhaps cynically, that "there have always been blacks at the workplace, but right at the bottom" and argue for top black managerial positions as "real diversity"

The BMF also slammed the bill for allegedly seeking to tone down affirmative action, but Loyiso Mbabane, department of labour director of equal opportunities and a former member of the BMF, says he is "worried" the BMF is failing to take a "broader perspective" and to "rise above sectoral interests"

"The department of labour cannot



come up with a law whose sole purpose is the development of black managers. What about black artisans, workers, secretaries and the others? It is not correct to say that the Employment Equity Bill is silent on management (It states) that companies must be equitable across all occupational categories and levels, horizontally and vertically," Mbabane said

Mbabane says "it's very unfair" to dismiss such appointments as tokenism. At any rate, he says, the department can easily check that out in company equity plans and reports.

"Token appointees tend to occupy low-risk, low-profile positions such as public relations, human resources and social responsibility management, where the person takes decisions that do not affect company productivity and losses. It is very difficult to become a successful token in engineering, operations and finance where output is measurable and quality (or the lack of it) is easily picked up."

The BMF call for an "independent equity commission" as opposed to an "advisory" one provided for in the bill, is not viable and a potentially expensive proposition that could play into the hands of the right wing

Neither does this proposition curry favour with the department.

"A call for an independent commis-

sion would have made sense in 1993 or 1994 when people did not yet have confidence in the government. Then there was doubt about how fast the new government would transform the country. To be on the safe side people wanted to ensure the commissions were independent

"This government has the full mandate to rule, and the department of labour has proved itself to be the champion of the underprivileged," Mbabane said.

He said the equity commission was modelled on the basic conditions of employment commission, with full representation from labour, government and business

The South African Chamber of Business's (Sacob) contention that the provisions of the bill will harm small business does not hold water. As Mbabane points out, there are thousands of highly profitable small businesses which have been exempted. However, although Sacob maintains that the provisions of the bill will be a heavy drain on small businesses, it concedes that it depends on how one defines "small business"

The contingency of government contracts upon compliance and the progressive-scale fines are designed to give teeth to the proposed new labour law

"This law will be unbalanced if it does not enforce compliance," Mbabane said.

Constitutional Court rejects Cosatu appeal bid

(16b) PD 8/12/97

Reneé Grawitzky

THE Constitutional Court last week rejected an application by the Congress of SA Trade Unions (Cosatu) appealing against a Labour Appeal Court decision which ruled that workers embarked on protest action on May 12 this year would be unprotected.

The Court failed to give reasons for refusing Cosatu's application to appeal against the Labour Appeal Court ruling. Cosatu had planned

the action in support of demands over the Basic Conditions of Employment Bill.

The labour court majority judgment found Cosatu had not complied with the Labour Relations Act by ensuring the matter had been considered by the National Economic Development and Labour Council before protest action was taken.

The court claimed procedures to be followed in section 77 of the act had to be done in sequential order.

Cosatu, in its supporting affidavit to the Constitutional Court, argued that if the labour court had interpreted the right to protest action as part of the constitutional right to strike — which the majority view of the court did not — then it would have interpreted the act differently.

The court would not have interpreted section 77 in the "narrow way" it did by claiming that the procedures had to be followed in sequential order, Cosatu said.

The federation asked the Constitutional Court to reinterpret section 77 of the act in light of the constitutional right to strike. If leave to appeal was granted, Cosatu would seek to get the Labour Appeal Court order set aside.

In its answering affidavit, Business SA (BSA) denied that the Labour Appeal Court had "erred in any of the respects referred to" BSA said Cosatu appeared to be seeking general advice and guidelines on the interpretation of the act, without suggesting the material findings of

the labour court were wrong. BSA said the Constitutional Court should be "slow" to issue general guidelines to the labour court on the interpretation of sections of the act, as the court was the final court of appeal in respect of all matters within its jurisdiction.

Business further argued Cosatu had failed to show there were any constitutional matters arising from the labour court's decision "in respect of which this Court should exercise its jurisdiction".

Kwa-Thema youths give up violence for soccer

PD 8/12/97

Nomavenda Mathiane

A FEW months ago, Kwa-Thema youths were killing each other over political affiliation. On Friday, they played soccer together.

Since 1993 Kwa-Thema — a township next to Springs on the East Rand — has been going through a bloody war waged by youths claiming to be supporters of either the African National Congress or Pan Africanist Congress.

This war claimed many young lives and saw some of the students fleeing the township and taking refuge in the nearby hostel. Some of the students are serving jail sentences for crimes committed during the clashes, while others are awaiting trial.

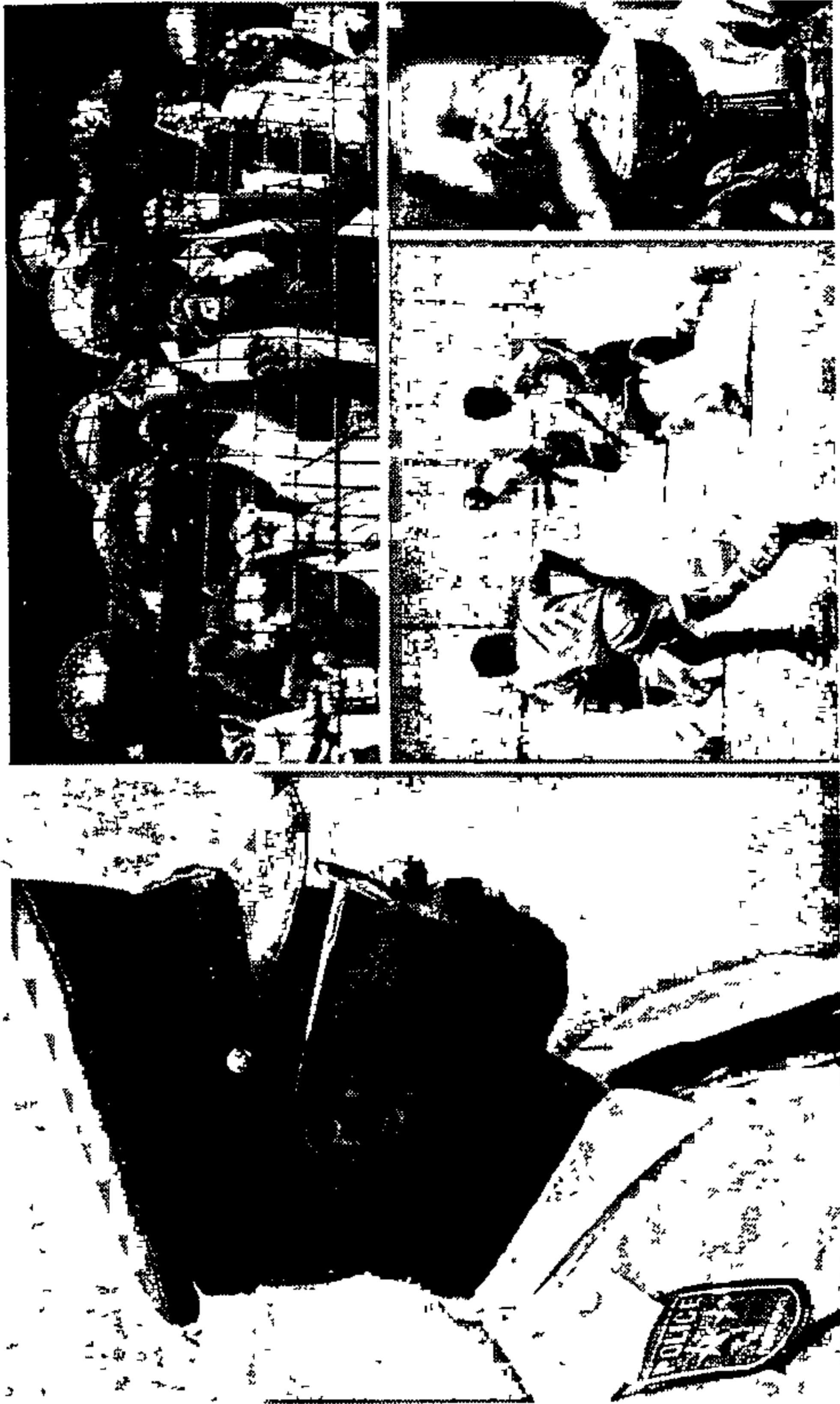
There have been many attempts to bring peace to the warring factions, without much luck. However, an "Adopt-A-Cop" project, initiated by Gauteng safety and security MEC Jessie Duarte, seems to be succeeding. The aim of the project was to get policemen, the community and students to work together.

In the past it was normal for students to aimlessly roam the streets of Kwa-Thema, fighting and refusing to go to classes. However, on Friday the local stadium was full of students cheering their classmates.

Kwa-Thema Insp Paul Mawane — the man behind the move towards peace in the troubled township — proudly watched the boys from Kenneth Masikela High School and Nkumbulo High School display their skills on the soccer pitch. "This has been touch and go," Mawane said. He said the event almost did not take place because of the schools' disruptions. The sports day had been planned for September, but had to be postponed until this month when stability seemed to prevail.

He said he hoped next year to include sports such as tennis, cricket, basketball and rugby, and there were plans to make it an annual event.

Kwa-Thema Community Police Forum secretary Moses Magudulela said he was proud to see the fruits of negotiations manifested in a sports day.



Kwa-Thema Police Inspector Paul Mawane watching the township students play soccer last Friday as part of the truce they have signed. Township children admire the high school boys as they battle to win the trophy donated to the schools by local companies.

Picture Robert Botha

Exploitative employers face workers' wrath

(166) *Bowman 11/12/99*

By Abdul Milazi

EMPLOYERS who exploit temporary workers to avoid the costs of hiring full-time staff could find themselves in costly legal suits

This is the view of industrial relations experts Gavin Weiner and Joe Campanella, who argue that many companies employ temporary or contract workers only because they think that they are cheaper to hire and fire

"While permanent employees are fully entitled to all company benefits, these are not normally offered to temporary staff. There is thus usually a significant cost difference between the two employment categories," Campanella explained

Campanella said under the new

Labour Relations Act (LRA), all workers are entitled to the same rights as permanent staff. These include statutory paid leave, sick leave, meal and tea breaks, overtime pay and company contributions to the Unemployment Insurance Fund (UIF)

New legislation

"Under the new legislation, the termination of a temporary employment contract may constitute dismissal, even though by its very nature, such a contract will automatically end at a certain point," he said

The LRA states that dismissal includes a situation where "an employee reasonably expected the employer to renew a fixed-term contract of employment on the same or

similar terms, but the employer offers to renew it on lesser terms or did not renew it"

Campanella said unless the temporary position comes to an end, and nobody is employed to fill it after the temporary worker has left, or the employee could not have had any reasonable expectations of it continuing, the termination of a temporary contract may be viewed as a dismissal

"The key issue therefore is whether or not the employer created the expectation of continued employment despite the clear provisions of a fixed term contract," he said

He said temporary workers can also claim compensation for unfair dismissal if the employer did not act fairly in terminating his-her contract

Lowdown on labour law early next year

Nedlac to discuss guidelines

(166)
ARG 12/1498/12/99

Johannesburg - Clarity on how the Basic Conditions of Employment Bill would effect employers would be provided early next year, Lisa Seftel, the Labour Department's director of minimum standards said here.

The department had been inundated with inquiries from employers wanting to know what they had to do to comply with the legislation, once it was promulgated, Ms Seftel said in an interview yesterday

Much work had to be done first and a study into the effect the bill would have on small businesses would have to be carried out by the Trade and Industry Department, she said

Ms Seftel said its recommendations would have to be processed and then a decision taken on whether any amendments were necessary

Guidelines and regulations for the legislation would have to be drawn up and discussed in the National Economic Development and Labour Council (Nedlac)

Prescribed forms would also have to be

drafted and tested, and a publicity campaign launched to inform employers and employees about the bill and whether they needed to change employment contracts

Enforcement mechanisms would have to be designed and inspectors would have to be trained, Ms Seftel said.

Codes of good practise for working time would also have to be drawn up and the Employment Conditions Commission set up

The commission together with the Labour Department would undertake an investigation into the earnings threshold at which the conditions of the bill will apply. Annual earnings of between R60 000 and R70 000 are thought to be the likely limit

The issue of improving maternity benefits also needed to be cleared up with the Unemployment Insurance Fund, Ms Seftel said

Labour director-general Siphon Pityana said the main implementation of the Bill would only take place in 1999, but parts of were expected to come into effect next year. - Sapa

COMMENT & ANALYSIS

Business ignoring new bill at its peril.

GIVEN the fact that the Employment Equity Bill of 1997 aims at bringing back compulsory race classification — and could impose this on all employers irrespective of size — it is surprising that business has thus far raised so little objection to it.

Press reports to date have stressed that organised business has generally accepted the measure. Press coverage of the bill has also been superficial and has failed to probe its implications. Business may thus be unaware of what it is apparently endorsing.

Much of the analysis of the bill has been premised on the assumption it is only employers of 50 people or more who need be concerned about the "under-representation" of black people, women, and the disabled at all levels of the workforce. Experience from the US indicates, however, that every employer — irrespective of size — may have to correct for "under-representation".

The reason is a simple one. The bill prohibits all employers from discriminating against employees, either "directly" or "indirectly". Direct discrimination involves intent on the part of the employer and can be deduced, for instance, from any overt expression of prejudice. Indirect discrimination, by contrast, does not require any proof of intent.

In the US, moreover, it is well-established that indirect discrim-

ination can be inferred from the statistical "under-representation" of designated groups at any level in the workforce. Under representation is assessed, in general, by reference to regional and/or national demographics.

Where under-representation is found, this is regarded under US law as evidence that the employer must have discriminated in the past — and the onus then lies on the employer to justify the composition of his workforce.

Should he fail to do so, both compensatory and punitive damages can be claimed on a class basis — and the amount awarded can be substantial.

The parallels between the bill and US law are significant. As in US law, the bill

- Prohibits "indirect" as well as "direct" discrimination;
- Reverses the normal onus of proof;
- Allows employees to claim both compensatory and punitive damages; and
- Enables action to be brought on a "class" basis for the benefit of a group of employees who are similarly situated.

Business in SA seems unaware of the onerous demands it will face if the new Employment Equity Bill becomes law, writes Anthea Jeffrey

ED 19/12/97 (166)

How, then, are "suitable abilities" to be assessed? The bill is silent in this regard, but experience in the US warns that any assessment of ability — whether through general intelligence or employment related tests — is fraught with difficulty.

For a test which has an "adverse" effect on members of designated groups — in that members of such groups generally do less well than other individuals — is itself evidence of indirect discrimination. The employer must then show that the test he used was justified by business necessity. If he fails to discharge this complex burden, compensatory and punitive damages can again be claimed.

The explanatory memorandum accompanying the bill supports the inference that "equitable representation" means representation and/or regional demographics.

The memorandum cites, for example, the percentages of whites and blacks currently occupying unskilled and managerial positions. Based on this evidence, the memorandum concludes that

There is little correlation between the composition of the workforce at technical, professional and managerial levels and the overall demographics of our country.

What government envisages, it seems, is that population composition should be mirrored in the workforce at all levels. Its intent in this regard can, of course, be used by the courts in the future as an aid to interpreting the law.

Employers with more than 50 employees confront, thus, a twofold risk.

Not only can they be sued at any time for unfair discrimination, but they also face severe penalties for failure adequately to achieve employment equity. Every designated employer must:

- Analyse his workforce by race, gender and disability;
 - If this shows "under-representation" at any level, draw up an "employment equity plan" incorporating "numerical goals" and a timetable for making "reasonable progress" towards these in one to five years; and
 - Report annually on progress towards "equitable representation".
- How is this to work in practice?

Assume an employer in the trucking business has 100 employees, only 30% of whom are female. At management level, blacks constitute only 20% and women a mere 10%. The employer cannot unfairly dismiss existing employees, but must also make "reasonable progress" within five years towards a workforce which, at all levels, is approximately 75% black, 50% women and 5% disabled. If natural attrition is limited and he cannot afford to take on new staff, his progress in reaching these "numerical goals" is likely to be slow. If it is deemed insufficient, he faces a fine of up to R500 000 in the first year, R600 000 in the second, R700 000 in the third, R800 000 in the fourth and R900 000 in the fifth.

These penalties are severe. And they can, of course, be buttressed at any time by the award of compensatory and punitive damages for any alleged discrimination the employer is unable to prove fair.

Once this bill becomes law, business will have to comply with race classification all over again. If business is indeed willing to support this, it is either unaware of the implications of the bill or is unwilling to confront government on so sensitive an issue as affirmative action.

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Jeffrey is a special research consultant at the SA Institute of Race Relations

CAPE ARGUS ISSUES

Uneasy reception on all sides for equal employment bill

The recently published Employment Equity Bill has elicited so many different responses that observers can be forgiven for being a bit confused.

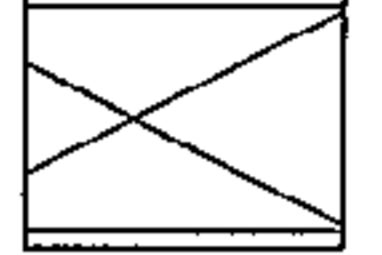
The South African Chamber of Business (Sacob) has commended the bill, while at the same time criticising it for placing unreasonable demands on businesses.

Sacob said in a recent statement: "What the bill seeks to do is create a fully representative workforce in all occupational categories within five years."

"This is unrealistic, given the present level of skills and education."

The Congress of South African Trade Unions (Cosatu) has been less than enthusiastic in their response, although the federation's spokesperson Nowethu Mpati told the Cape Argus they were not opposed to the objectives of the bill in principle. So, just what is this bill that has caused almost everyone in the labour

THABO MABASO, Business Reporter, explains some anomalies in the new anti-discriminatory Employment Equity Bill



market to stand up and welcome it, while at the same time harbour reservations about it?

Labour Minister Tito Mboveni told the Cape Argus the bill sought to achieve employment equity by eliminating discrimination against women, blacks and disabled people in the workplace.

It proposed to do this by compelling companies which employed more than 50 employees to develop an affirmative action plan in consultation with their employees and the

trade unions involved.

The plan should state how a company intended to remove discrimination in the workplace and when representation would be achieved.

These plans were to be lodged with the Department of Labour.

In addition, the company was supposed to submit annual reports to the department on how the implementation was coming along.

All employers - except the National Defence Force, SA Secret Service and National Intelligence Agency - were supposed to comply with the provisions of the bill.

Companies with fewer than 50 employees, however, could not discriminate against employees because the company was excluded from compiling equity plans.

In instances where there were constant reports of discrimination against a small entrepreneur, the department might deem it fit for that

employer to compile a plan.

The department also would conduct a comprehensive review of compliance with the bill's objectives and progress every seven years.

Mr Mboveni's ministry devised the bill after seeing what it said were shocking statistics of the demographics of South African managers.

The statistics were derived from the University of Cape Town based Breakwater Monitor survey which revealed that between 1992 and 1996 black senior managers had increased by only 0,4%.

Women, who comprised 52% of the population, occupied only 12,2% of senior managerial posts in 1996. None of the woman senior managers were black.

The situation was no better for disabled people, either. Estimates have shown that one in five is economically active, yet only one in 100 has a job in the labour market.

UCT industrial relations professor Frank Horwitz suggested that the equity bill be accompanied by appropriate training programmes that would complement it.

"We cannot achieve equity without an improvement in training. Money and resources geared at developing the workforce must be invested to complement this bill," he said.

Mr Mboveni said the bill did not place any timeframes or quotas on employers, however, the equity plan that would be compiled by the social partners would include such matters.

He also said companies which complied with the provisions of the bill would get favourable treatment when the Government allocated contracts. "Those who will be succeeding in terms of complying with the law must be complimented for their success," he said.

However, those companies which intentionally flouted its provisions

would face fines of up to R900,000.

The bill also proposed the establishment of a commission to advise the minister on issues of employment equity.

Mr Mboveni said his department was going to create an inspectorate division that would not only monitor Unemployment Insurance Fund contributions, but whether employers complied with all pieces of labour legislation.

He said "Most importantly, however, the people who become the best monitors of this law will be the workers themselves, because they know best what happens in each enterprise, so they can blow the whistle and indicate to us that something is wrong at some factory."

The Department of Labour would also do regular surveys of the top 100 companies to make sure that they adhered to the requirements of the employment equity law.

The equity bill will be tabled for discussion in the National Economic Development and Labour Council and Parliament early next year. Mr Mboveni expects discussion to be concluded on the bill during the middle of next year.

Barring any mishaps of the nature that befell the Basic Conditions of Employment Bill, where parties disagreed on almost everything and negotiations dragged on for months, the affirmative action bill could be promulgated into law soon after that.

Labour market analysts have suggested that Cosatu's response may stem from a fear that the bill could denude the federation of experienced shop stewards and members.

Workers who had long term service with companies and were overlooked for promotion because of their colour could benefit from the spilloffs of the equity bill, the analysts have said.