

Changes to labour laws – what you need to know

THERE were numerous developments in employment law recently, with various employment legislation amendments coming into force.

So says Imraan Mahomed, an employment partner at Hogan Lovells.

The suite of legislative changes includes the Labour Relations Amendment Act, 2018; the Basic Conditions of Employment Amendment Act, 2018; the National Minimum Wage Act, 2018 and the Labour Laws Amendment Act, 2018.

Some of the more important changes people should be aware of include:

The National Minimum Wage Act

The purpose of the act is to advance economic development and justice by improving the wages of the lowest paid workers, and protecting workers from unreasonably low wages.

Some of the important provisions of the act:

- Applies to all employees and employers, except members of the South African National Defence Force, the National Intelligence Agency and the South African Secret Service;
- Sets the national minimum wage at R20 per hour worked. Domestic workers shall be entitled to R15 per hours, farm workers to R18 per hour and employees on expanded public works programme to R11 per hour;
- “Ordinary hours of work” are 45 hours in any week; nine hours in any day. If an employee works for five or fewer days in a week, eight hours a day, if an employee works for more than five days in a week, these hours may be extended by agreement by up to 15 minutes in a day, and 60 minutes in a week. An employee (earning within the earnings threshold) who works for less than four hours on any day must be paid for four hours’ work on that day.

Labour Laws Amendment Act

This act introduces amendments to the Basic Conditions of Employment Act and the Unemployment



Insurance Act, 2001.

Basic Conditions of Employment Act

- Employees are now entitled to parental leave of 10 consecutive days. Parental leave is only available to parents who are not entitled to maternity leave;
- Adoption leave of 10 consecutive weeks is available to an adoptive parent of a child who is below two years;
- Both these categories of leave are unpaid, but subject to benefits from the Unemployment Insurance Fund (UIF);
- In the event of an adoptive order being made in respect of two adoptive parents, one of the adoptive parents may apply for adoption leave and

the other adoptive parent may apply for the parental leave;

- Commissioning parental leave of 10 consecutive weeks is available to a commissioning parent in a surrogate motherhood agreement from date of childbirth. If a surrogate motherhood agreement has two commissioning parents, one of the commissioning parents may apply for commissioning parental leave and the other commissioning parent may apply for parental leave.

Unemployment Insurance Act (UIA)

The act provides for the application for, and the payment of, parental and commissioning parental benefits from the UIF.

- A parent (defined as an adoptive parent of a child who is less than two years old, prospective adoptive parent, and parent of a child born as a result of a surrogate motherhood agreement) shall be entitled to benefits under the UIA provided that they were employed, whether as a contributor or not to the UIA, for at least 13 weeks before the date of the application for benefits;
- An application for benefits must be made within 12 months of childbirth, adoption order or placement of the child in the prospective adoptive parent’s care.

Labour Relations Amendment Act

The Labour Relations

Amendment Act came into effect on January 1, 2019. The act aims to amend the Labour Relations Act to, *inter alia*, extend the meaning of ballot to include any voting by members that is recorded in secret.

The guidelines provide that every trade union or employers’ organisation must now conduct a secret ballot of members in respect of whom it intends to call the strike or lock-out, before calling the strike or lock-out.

At the heart of this “voting by members” by way of a secret ballot, the purpose is to assess whether a strike or lock-out is supported or by the majority of members.

*Imraan Mahomed from
Hogan Lovells.*