

What's up...in the news

LABOUR LAW CHANGES CHALLENGED

Fedusa's attempt to challenge certain labour law amendments currently before the National Council of Provinces (NCOP) has caused some last minute flurry between labour, government and business.

Last year Fedusa lodged a section 77 application with the National Economic Development and Labour Council (Nedlac) on the basis that it opposed the amendments made to section 197 of the Labour Relations Act (LRA). The section 77 notice of intention to embark on socioeconomic protest action is in relation to the clause in the LRA, relates to the rights of workers in the event of a transfer of undertakings. This clause has always proved to be rather problematic. Its intentions are even unclear to those who drafted it in 1995. In view of the overall confusion around this clause, it formed part of the package of amendments negotiated recently in Nedlac as part of government's overall review of labour legislation.

Fedusa does not believe that the proposed amendments agreed to during the negotiation process goes far enough to protect worker pension/provident fund benefits in the event they are transferred from one company to another. Depending on whether workers belong to a defined benefit or defined contribution fund, the risks can either be carried by the employer or employee. If an employee, who is close to retirement, is transferred from a defined benefit (employer carries the risk) to a defined contribution (employee carries the risk) he could find himself in a poorer position, depending on the market.

Fedusa had demanded that an employee have a choice in deciding whether to have monies transferred from one fund to another; permit the new employer to pay contributions into the fund of the old employer where the fund remains in existence (this will require compulsory change to the pension fund rules) and to allow the benefits to be paid up or allow the employee to be paid out in order to start up a new fund. The proposed amendment merely states that the fund must transfer the actuarial valuation of the employee to the new fund. This, Fedusa has argued, does not factor in the risks incurred by the employee.

There are concerns that if Fedusa pushes ahead with this issue it could provide those sections in business and government the opportunity to challenge other amendments in the NCOP. The amendments have already been passed through the national assembly but have yet to be debated in the NCOP. Fears of the deal unravelling at this late stage have caused some elements in Fedusa to reconsider their position. They realise that as an overall package labour probably benefited more than business and government. Fedusa now faces pressure to ensure the status quo is retained.

Further challenges to the amendments could delay their implementation. The Department of Labour has indicated that the amendments are likely to come into effect by May or June this year.

TELECOMMS SUMMIT ON TRACK?

The upcoming telecommunications sector summit is not likely to keep the public as

riveted as the 'toing and froing' surrounding the drafting of government policy on a second phone operator, but it should nevertheless prove enlightening.

Following demands from labour, it was agreed at the presidential Jobs Summit in October 1998, that sector summits would be held in those sectors that either had a high potential to create or lose jobs. The concept of sector summits was incorporated in an initial draft of the proposed new economic growth path, which focuses on the need for sector-specific strategies.

The upcoming telecommunications summit is but one of a number of sector summits being planned this year. Labour – rightly or wrongly – believes the sector summit will be critical, as it will provide a forum for greater transparency in policy formulation. Instead of parties relying on the strength of their lobbying abilities, all stakeholders will be forced to engage and negotiate in an open forum. A labour observer says, 'this will make a change from what has appeared to have become the practice in this industry, that policy adopted by government is based on who spoke last to the relevant authority.'

Labour, government and business representatives are still in the initial stages of trying to sort out the terms of reference for the process and how the various constituencies are to be constituted. Questions have been raised about the composition of the business grouping and whether Telkom, SA Post Office and the South African Broadcasting Corporation (SABC) fall under business or government (see p 57).

RETRENCHMENTS IN MEDIA SECTOR

The events of September 11 seem set to continue to affect the state of world economies for some time to come. The sharp decline in the advertising revenue has impacted negatively on the media sector with a number of international companies being forced to retrench. The South African media sector has not been left unscathed with retrenchments taking place at the *Mail & Guardian*, *Independent Newspapers* and *Business Day*

while there are some rumblings about threats of job losses at Naspers.

It appears that while reporting on retrenchments in other companies, media management has learnt various 'interesting' and 'innovative' ways of reducing staff and especially those they want to get rid of. (See p 66 for some free legal advice.)

UNIONS FACE DECLINING MEMBERSHIP

The growth in membership of the main trade union federations has begun to level off as they continue to be affected by job losses. Within this climate union leadership have warned that unions have to become more service oriented to retain members.

Fedusa general secretary Chez Milani said unions had to add value to their members otherwise they would not remain in business. Cosatu general secretary Zwelinzima Vavi said the federation had lost 600 000 members between 1991 and 2000 largely as a result of retrenchments in manufacturing.

'This is the year of the member,' Vavi declared. He acknowledged that if trade unions had no numbers or organisational strength, 'nothing can be taken forward'. The basis of being listened to, he said, was reliant on having a strong organisation.

Hence, rebuilding the organisation would be a central focus this year. The work being done in this area is largely based on the input made to the federation's organisational review report presented to the central committee last year. The organisational review report was an attempt to build on the September Commission, which was released at the Cosatu's sixth national congress in 1997. The September Commission proposed comprehensive strategies for organisational renewal so that the federation could play a central role in social and economic transformation.

MBEKI'S CALL TO CUT POVERTY

Workers are set to benefit from a further tax cut to ensure higher real wages but at the same time could face calls for moderate wage

demands as part of an overall initiative to achieve higher growth for the country.

This emerged during President Thabo Mbeki's state of the nation address at the official opening of parliament on 8 February 2002. Mbeki's central theme was reflecting how government planned to 'push back the frontiers of poverty' during the year ahead.

'Measures to improve and increase economic growth were critical,' Mbeki said, 'if the country was to advance at the rate required to address its social challenges.'

These will include the promotion of foreign and local investment, trade promotion, a social accord and growth summit. Mbeki said all parties – labour, government and business – had agreed last year that a growth summit should be convened to address the challenges facing the economy and build a partnership – 'in which all of us can lend a hand in building a prosperous SA.'

A critical element of this engagement is the need for a social accord/compact. 'We need to ensure that each sector lends a hand for higher growth, whose benefits can be shared equitably among all South Africans. This will mean, among other things, achieving congruence in expectation and certainty in such matters as inflation, wage and salary demands, rates of investments, positioning of the country in the global arena, our role in Nepad, job creation and poverty alleviation.'

He pointed out, on the one hand, that the 'path of an open economy that we have charted for ourselves is not up for review', but said on the other hand that expenditure could be expanded in real terms especially in the areas of social services and economic infrastructure. This was largely as a result of a low budget deficit and above target revenue collection.

Mbeki spent some time elaborating on the areas where government has delivered so far and where the shortfalls are. He highlighted the following programmes aimed at meeting government's goal of eradicating poverty and addressing underdevelopment.

- Government will work further to reduce the level of poverty by increasing the

allocations for both old age pensions and child grants by more than the rate of inflation. There will be a further tax cut for workers at the lower end of the salary scale.

- Government will continue to move ahead with the implementation of its human resource development programme which focuses both on education in schools and opportunities for school leavers.
- Government will pursue programmes to strengthen black economic empowerment, women's emancipation and justice for the disabled. Government has accepted the most critical recommendations of the black economic empowerment commission which include the setting up of a black economic empowerment council. Government's procurement policy will also be reexamined to ensure it meets the objectives of black economic empowerment.
- Measures to improve access to micro-finance for the poor and for purposes of income generation will be looked at. Linked to this will be a comprehensive review of all institutions mandated to assist small medium and micro-enterprises.
- Government is moving ahead with its integrated rural development and urban renewal programmes. In rural areas emphasis will be laid on ensuring food security and community-based job creation projects to directly address poverty; over the next three years the land restitution programme will be completed and water and sanitation programmes are being implemented to improve hygiene with an emphasis on schools and cholera infected areas of KwaZulu-Natal and the Eastern Cape.
- Government's drive to address the HIV/AIDS epidemic will be intensified in partnership with the SA National AIDS Council (Sanac). Talks will be held with some pharmaceutical companies to examine new ways of making drugs more affordable and to strengthen the country's health infrastructure.