



AgriSA Submission

Employment Laws Amendment Bill, 2025 and Labour Relations Amendment Bill, 2025

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Submitted by:

AgriSATM

 **AgriCulture**TM
SOUTH AFRICA / SUID-AFRIKA

1 INTRODUCTION

AgriSA welcomes the opportunity to submit comments on the Employment Laws Amendment Bill, 2025 and the Labour Relations Amendment Bill, 2025, published for public comment in the Government Gazette of 26 February 2026.

The Bills introduce amendments to a number of core labour statutes, including:

- the Basic Conditions of Employment Act, 1997 (BCEA);
- the Labour Relations Act, 1995 (LRA);
- the Employment Equity Act, 1998;
- the Unemployment Insurance Act, 2001 (UIA); and
- the National Minimum Wage Act, 2018 (NMWA).

AgriSA represents the collective interests of farmers and agricultural enterprises across South Africa. The agricultural sector remains one of the most labour-intensive sectors of the economy and plays a critical role in rural employment and food security.

For this reason, labour regulatory changes affecting agriculture must be carefully calibrated to avoid unintended consequences such as:

- reduced employment opportunities;
- accelerated mechanisation;
- increased informalisation of labour; or
- the financial destabilisation of farming operations.

AgriSA has identified several provisions in the Bills that may have significant operational and economic implications for the agricultural sector.

These comments focus particularly on those provisions.

EMPLOYMENT LAWS AMENDMENT BILL, 2025

2.1. REGULATION OF "ON-CALL" AND FLEXIBLE WORK ARRANGEMENTS (Insertion of section 9B – BCEA)

Overview of proposed amendment

The Bill proposes the insertion of section 9B into the BCEA regulating employees who are required to work only when the employer makes work available and who must remain available to accept such work.

The amendment requires employers to specify in writing:

- guaranteed hours of work;
- maximum hours of work;
- periods during which the employee must be available for work;
- the notice period for reporting for work; and
- the notice period for cancellation of work.

Where adequate notice is not given for cancellation of work, the employer must remunerate the employee for the cancelled hours.

Sector-specific implications

While the objective of protecting vulnerable workers is supported, the proposed provision does not sufficiently take account of the unique operational realities of agriculture.

Agricultural production is highly dependent on environmental variables that are outside the control of employers. These include things such as rainfall, temperature conditions, irrigation scheduling, harvesting windows, crop disease outbreaks and equipment breakdown.

It is therefore common in agricultural operations that work schedules must change on short notice. The proposed amendment may unintentionally expose agricultural employers to mandatory payment obligations for cancelled work where cancellation arises from unavoidable environmental conditions. Organised business explicitly rejected this provision at Nedlac because it creates confusion with existing seasonal employment provisions that already function well. The agricultural sector relies on "operational agility." Forcing a 48-hour notice period on a sector dictated by immediate weather changes (like sudden frost or rain during harvest) is not just a burden, it is a mathematical impossibility for many crops.

This would impose a financial burden that many farming operations cannot reasonably absorb.

Recommendation

AgriSA recommends that the proposed section 9B be amended to:

1. Explicitly recognise agriculture as a sector requiring operational flexibility due to environmental and seasonal factors.
2. Allow for shorter notice periods for cancellation of work where cancellation arises from weather conditions or other factors beyond the employer's control.
3. Permit sectoral determinations or collective agreements to regulate flexible work arrangements within agriculture.
4. Clarify that the provision is primarily aimed at regulating zero-hour or gig-economy contracts, rather than legitimate seasonal agricultural employment.

2.2 SEVERANCE PAY (Amendment of section 41 BCEA)

Overview

The Bill proposes an amendment to section 41 of the BCEA increasing statutory severance pay from one week's remuneration to two weeks' remuneration for each completed year of service.

This represents a doubling of the statutory severance entitlement.

Economic implications for agriculture

The agricultural sector is characterised by high labour intensity, low operating margins, exposure to climatic risk and significant price volatility.

Retrenchments in agriculture often arise from circumstances beyond the employer's control, including drought, flooding, crop failure, disease outbreaks, water restrictions and structural adjustments in response to global market conditions.

It should be noted that organised business rejected this increase entirely during Nedlac negotiations. Organised business proposed to allow employers in "genuine financial stress" to apply for an urgent reduction/exemption of severance pay to avoid total liquidation.

The proposed amendment would significantly increase the cost of retrenchments in such circumstances.

This may have unintended labour market consequences, including:

- discouraging the creation of permanent employment;
- accelerating the substitution of labour with mechanisation; and
- increasing reliance on seasonal or temporary employment arrangements.

Recommendation

AgriSA recommends that:

1. The proposed increase in severance pay be phased in over a defined period.
2. Consideration be given to sector-specific flexibility for agriculture, particularly where retrenchments arise from natural disasters or force majeure events.
3. Government conduct a comprehensive economic impact assessment of the amendment on labour-intensive sectors.

2.3 EXPANDED DEFINITION OF EMPLOYEE AND EXTENSION OF SPECIFIC RIGHTS

Overview

The proposed Schedule 11 to the LRA and amendments to Section 3 of the BCEA extend organisational and bargaining rights to people who are not currently defined as employees. This blurring of the lines between an employee and an independent contractor creates immense legal uncertainty.

Economic impact for agriculture

In agriculture, specialised contractors (e.g., for specialised harvesting, technical irrigation, or veterinary services) are vital. The extension of the LRA and BCEA to "atypical workers" risks turning every commercial service agreement into a potential labour dispute. This undermines the independent contractor model which is essential for specialised agricultural services". Organised business formally rejected this at Nedlac precisely because it extends the Act to workers who are not vulnerable in the traditional sense.

Recommendation

AgriSA recommends that:

1. The expanded definition of employee and extended bargaining rights be removed and that these issues be renegotiated at Nedlac.

2.4 PARENTAL LEAVE AND UIF PARENTAL BENEFITS

Overview

The Bill introduces amendments aligning the BCEA and the UIA with the Constitutional Court judgment in *Van Wyk and Others v Minister of Employment and Labour*.

Under the proposed framework:

- a single parent or sole UIF contributor will be entitled to 17.32 weeks of parental benefits;
- where both parents are contributors, the benefit may be shared as 17.32 weeks plus 10 days.

The amendments extend benefits to adoption and surrogacy arrangements.

Operational implications

While the principle of equal parental leave is supported, the practical implications for employers require careful consideration.

Under the proposed system, parents employed by different employers may share parental leave benefits between them. This may result in a situation where the employer of the non-primary parent may be required to accommodate significantly longer periods of absence than under the previous framework, where such employers typically accommodated only ten days of parental leave.

For small agricultural enterprises with limited workforces, the extended absence of key employees during critical production periods may create operational challenges.

Recommendation**AgriSA recommends that the legislation:**

1. Provide for reasonable advance notice requirements for parental leave arrangements.
2. Permit employers to engage employees in operational planning discussions regarding the scheduling of leave.
3. Ensure that UIF benefit administration processes remain efficient and accessible for workers in rural areas.

2.5 NATIONAL MINIMUM WAGE AMENDMENTS**Removal of sector-specific minimum wage review**

The Bill removes the requirement for separate minimum wage reviews for farm workers and domestic workers. Farm workers have already been aligned with the national minimum wage rate for several years. The removal of the separate review mechanism may therefore have limited immediate wage implications.

Composition of the National Minimum Wage Commission

The Bill proposes changes to the composition of the National Minimum Wage Commission, including the removal of representation from the NEDLAC community constituency.

AgriSA is concerned that this may narrow the range of perspectives informing the Commission's deliberations.

Given the significant socio-economic implications of minimum wage determinations, the Commission should retain balanced and representative stakeholder participation.

Recommendation

AgriSA recommends that:

1. The Commission retain broad stakeholder representation, including community and rural constituencies.
2. The Commission continue to conduct sector-specific economic impact assessments, particularly for labour-intensive sectors such as agriculture.

2.6 LIMITATION OF REMEDIES FOR HIGH-PAID EMPLOYEES

Overview

The Bills include a cap on remedies for employees earning over R1.8 million per annum.

Recommendation

AgriSA supports this provision (found in Section 193(2A) and 194 of the LRA). It limits such employees to compensation rather than reinstatement (except in cases of automatically unfair dismissal). This reduces the risk of protracted, high-stakes litigation for senior farm managers or technical specialists.

2.7 EXPANSION OF HARASSMENT CLAIMS

The amendments to the Employment Equity Act allow employees to refer any form of harassment dispute to the CCMA. AgriSA supports strong protections against harassment in the workplace.

However, the expanded definition may result in a significant increase in disputes referred to the CCMA, potentially placing additional strain on an already burdened dispute resolution system.

Recommendation

AgriSA recommends that:

1. Internal grievance procedures be utilised as the primary mechanism for addressing workplace harassment complaints before referral to the CCMA, except in serious cases.
2. Clear guidelines be issued to distinguish harassment disputes from general workplace conflict.

2.8 COMPLIANCE AND ENFORCEMENT PROVISIONS

The Bill strengthens compliance mechanisms and enforcement powers available to labour inspectors and the CCMA.

AgriSA supports effective enforcement of labour standards. However, enforcement should remain fair, proportionate and administratively practical, particularly in rural environments where employers may face logistical challenges.

Recommendation

Government should accompany stronger enforcement measures with **enhanced compliance guidance and support for rural employers**, including improved outreach programmes.

2.9 SMALL BUSINESS RELIEF (START-UP EXEMPTIONS)

The LRA Amendment Bill (Section 32) proposes that "start-ups" (less than 50 employees) be exempt from extended bargaining council agreements for the first 24 months.

Recommendation

AgriSA strongly supports this but argue for its extension to all small agricultural enterprises, not just new ones. Many family-owned farms operate with fewer than 50 employees and struggle with the "one-size-fits-all" costs of large-scale bargaining council agreements.

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LABOUR RELATIONS AMENDMENT BILL, 2025

The Labour Relations Amendment Bill proposes various amendments relating to:

- collective bargaining;
- bargaining council agreements;
- trade union governance;
- dispute resolution processes; and
- regulation of socio-economic protest.

While many of these provisions do not directly target the agricultural sector, AgriSA highlights the importance of ensuring that:

- labour relations frameworks remain stable in rural environments;
- essential agricultural infrastructure is protected during protest activity; and
- dispute resolution mechanisms remain accessible and efficient.

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CONCLUSION

AgriSA supports the objective of modernising labour legislation and strengthening protections for workers.

However, labour reforms must be implemented in a manner that recognises the distinct operational and economic realities of agriculture.

Overly rigid regulatory frameworks risk undermining the sustainability of farming operations and may ultimately reduce employment opportunities in rural communities.

AgriSA therefore urges the Department and Parliament to carefully consider the sector-specific concerns raised in this submission and to ensure that the final legislative framework strikes an appropriate balance between worker protection and sustainable job creation.



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