



**REPORT OF THE PORTFOLIO COMMITTEE ON THE
ECONOMIC AND DEVELOPMENT CLUSTER**

ON

LABOUR BILL, 2024

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1. INTRODUCTION

The Honourable Minister responsible for Labour and Employment presented the Labour Bill, 2024 to the National Assembly. In accordance with Standing Order No. 51(5), the Bill was referred to the Portfolio Committee on the Economic and Development Cluster for consideration.

Following the referral of the Bill, the Committee invited the Ministry of Labour and Employment to brief the Committee on the policy context, financial implications, contents and effects of the Bill.

The Committee further consulted with key stakeholders in the labour industry, the representatives of National Advisory Committee on Labour (NACOLA) and those of National Committee on Occupational Safety and Health (NACOSH).

2. PRESENTATION BY THE MINISTRY OF LABOUR AND EMPLOYMENT

The Ministry stated that the Bill intends to provide a comprehensive framework for regulating the employment relations, promoting fair labour practices and ensuring the welfare and rights of both employers and workers. In this Bill, issues of working conditions, wages and dispute resolution mechanisms within the labour market are addressed.

The Bill seeks to domesticate International Conventions in order to align the national labour law with international standards. These Conventions are:

- a) Forced Labour Convention, 1930 (No. 29);
- b) Abolition of Forced Labour Convention, 1957 (No. 105);
- c) Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87);

- d) Right to Organise and Collective Bargaining Convention, 1949 (No. 98) ;
- e) Equal Remuneration Convention, 1951 (No. 100);
- f) Discrimination (Employment and Occupation) Convention, 1958 (No. 111);
- g) Minimum Age Convention, 1973 (No. 138);
- h) Worst Forms of Child Labour Convention, 1999 (No. 182);
- i) Labour Relations (Public Service) Convention, 1978 (No. 151); and
- j) Violence and Harassment Convention, 2019 (No. 190).

The Bill empowers the Labour Court to make arbitral awards and settlement agreements into orders of court for purposes of enforcement. It proposes a new composition of the court by removing the ordinary members which were nominated by the President as per the provisions of the Labour Code, and introduces a Registrar or where need may be, a number of Deputy Registrars. The Bill proposes that the Registrar carry out duties in relation to the decisions, awards, records and docketing of the Labour Court. The Ministry stated that this will assist the Labour Court in efficiency and the reduction of the backlog on cases that needs to be settled.

The Bill further extends the jurisdiction of Directorate of Dispute Prevention and Resolution (DDPR) to disputes of unfair labour practices by proposing that it should be independent from the direction or control of any other person or authority, including Government when exercising its functions.

The Bill also introduces bargaining councils which shall be made from one or more registered trade unions, one or more registered employer' organisation,

and the Government where it is an employer in a related sector. The Bargaining councils shall participate highly in the collective bargaining process.

The Bill addresses the labour relations dichotomy between the public sectors and labour relations system by extending its coverage to public and informal sector and all those other business persons who were excluded in the Labour Order. The provision, however, make an exclusion of the security agencies and essential services.

The Bill introduces greater flexibility to accommodate global trends and to facilitate economic growth by introducing averaging of hours of work per month. This flexibility will enable employers to deal with work pressure when it occurs, such includes extension of hours of work. It further extends maternity leave to a worker who attains a stillborn child. It also introduces paternity leave, family responsibility leave, bonding leave where a worker has adopted a child and compassionate leave where a worker has lost an immediate family member.

The following adjustments have been made:

- a) Maternity leave is extended from 12 to 14 weeks;
- b) Paternity leave of 14 days is introduced;
- c) Compassionate leave of 5 days is introduced for an immediate family member; and
- d) Bonding leave of 14 days is introduced where a worker has adopted a child.

The Bill repeals the Labour Code Order, 1992 (as amendment), but leaves a provision for a direction, notice or other legislative instrument or document made or issued under any authority of the Labour Code Order, 1992 or its regulations. Except in so far as the former are inconsistent with the provisions

of this Act, to remain in force until such time as they shall have expired or have been revoked, replaced or cancelled under the provisions of this Act.

3. STAKEHOLDER'S SUBMISSION

The Committee consulted the stakeholders in a round-table setting to share their views on the Bill. The stakeholders emphasized their appreciation for consultations they received from the Ministry during the design drafting of the Bill and thus, appreciated the contents of the Bill.

In conclusion, the stakeholders posed their contentment on being involved in drafting of the Bill.

4. TYPOGRAPHICAL CORRECTIONS

In Clause 45, sub-clause (2), delete the first numbering **(b)**;

Clause 187, sub-clause 2 (d), line 3, after the word **“task”**, delete the word **“is”**;

In Clause 197, sub-clause (3), delete numbering **(3)** and substitute with **(2)**;

In Clause 209, sub-clause (1), line 4, after the word **“includes”**, delete the word **“to”**;

In Clause 210 (3) after the word **“person”**, add **an apostrophe** and a letter **“s”** for the word to read **“person’s”**;

In Clause 211, sub-clause (3), after the word **“shall”**, delete the **“full stop”**.

5. CONSIDERATION OF THE BILL CLAUSE BY CLAUSE

The Arrangement of Sections is approved with the following amendments:

Amendment No. 1

In 11, 19, 34 and 42 before the word **“National”**, insert the word **“Establishment of”**;

Amendment No. 2

Delete 32, 70, 77, 84, and 174 and renumber sequentially,

Amendment No. 3

Delete 56 to be 57 and 57 to be 56;

Clauses 1-2 were approved.

Amendment No. 4

In Clause 3, sub-clause (2) (b), after the word **“Police”**, add the word **“Service”**.

Amendment No. 5

In Clause 3, sub-clause (2) (d), before the word **“Correctional”**, add the word **“Lesotho”**.

Clause 4 was approved with the following amendments:

Amendment No. 6

In Clause 4, after the definition of **“chief”**, insert a definition of **“child”**.

Amendment No. 7

In Clause 4, after the definition of **“misconduct”**, insert a definition of **“NACOLA”**

Clauses 5-18 were approved.

Amendment No. 8

Delete Clauses 19-26

Clause 27 was approved.

Clause 28 was approved with the following amendments:

Amendment No. 9

In Clause 28 (b) and (c), after the word **“Minister”**, delete the words **“may consider necessary”**.

Amendment No. 10

In Clause 28, sub-clause 3, line 2, after the word **“consult”**, delete the words **“where applicable”**.

Clauses 29-43 were approved.

Clause 44 was approved with the following amendment:

Amendment No. 11

In Clause 44 (b), after the word **“advice”**, insert the words **“the Government”**.

Clauses 45 to 67 were approved.

Clause 68 was approved with the following amendments:

Amendment No. 12

In Clause 68, sub-clause (a) at the beginning, delete the words **“a judge”** and substitute with the word **“permanent judges”**.

Amendment No. 13

In Clause 68, delete sub-clause (2) and substitute with:

“Labour Appeal Court should have its own Registrar”.

Clauses 69-71 were approved.

Clause 72 was approved with the following amendment:

Amendment No. 14

Clauses 72, delete sub-clause (1) (b) and renumber sequentially.

Clauses 73-91 were approved.

Clause 92 was approved with the following amendment:

Amendment No. 15

In Clause 92, sub-clause (3), line 3, after the word **“register”**, insert the words **“and publicise”**.

Clauses 93-154 were approved.

Clause 155 was approved with the following amendment:

Amendment No. 16

In Clause 155, line 3, after the word **“Director”**, delete the word **“Public”**.

Clause 156 was approve with the following amendment:

Amendment No. 17

In clause 156, delete sub-clauses (c) and (f).

Clauses 157 to 172 were approved.

Clause 173 was approved with the following amendment:

Amendment No. 18

In Clause 173, delete sub-clause 2 and renumber sequentially.

Clauses 174 to 190 were approved.

Clause 191 was approved with the following amendment:

Amendment No. 19

In Clause 191, delete the heading and substitute with **“Circumstances under which an employer can open a shop”**.

Clause 192-194 were approved.

Amendment No. 20

Delete Clause 195 and substitute with the following Clauses and renumber sequentially:

“Ordinary hours of work and overtime

195 (1) Except as otherwise provided in the Act, the normal hours of work for any employee shall be not more than 45 hours per week, calculated as follows:

(a) for an employee who ordinarily works a five-day week, nine hours of work on any day;

(b) for an employee who ordinarily works a six-day week, eight hours of work on five days and five hours of work on one day;

(c) No employee shall be required to work continuously for more than five hours without being given a rest period from work of not less than one hour during which time he or she shall not be required or permitted to perform any work. Provided that -

(i) a driver of a motor vehicle, whose sole duty during the rest period is to be or to remain in charge of the vehicle and its load (if

any), shall not be deemed to be working during such rest period;
and

(ii) a period of work interrupted by rest periods of less than one hour shall be deemed to be continuous;

(d) Notwithstanding the provisions of this section, where the continuous nature of the work so requires an employer may request or permit an employee to work not more than twelve hours in a day where additional hours shall be overtime. In respect of the additional hours, the employer shall pay the employee for such overtime at a rate not less than one and one quarter times his or her normal wage rate;

(e) Any person who

(i) requests or permits an employee to work for more than five hours continuously without a break contrary to the provisions of subsection (2); or

(ii) requests or permits an employee to work hours of overtime in contravention of the provisions of subsection (1(d); or

(ii) fails to pay overtime rates to an employee in contravention of the provisions of subsection (1 (d), shall be guilty of an offence and liable on conviction to a fine not exceeding two thousand Maloti or to imprisonment for a period not exceeding six months or to both.

(2) Notwithstanding subsection 1 and where the nature of the work so requires, ordinary hours of work may be appropriated monthly which

shall be 195 hours in a month with a provision for overtime. The total hours worked in a month including overtime shall not exceed 260.

(a) An employer shall be permitted to average the hours to a worker provided under subsection (1), if-

(i) an employer does not permit a worker to work in excess of 195 hours per month as ordinary hours, every hour in excess of the 195 shall be overtime which shall be in accordance with subsection 2 above;

(ii) an employer provides a worker with a minimum daily rest period of 12 consecutive hours per 24-hour period; or

(iii) a worker is granted a rest period from work of not less than one hour after working for five consecutive hours, during which time, he shall not be required or permitted to perform any work.

(iv) a worker is provided with a schedule for their shifts in advance.

(b) No collective agreement shall contravene the provisions of this section.

(c) Except as otherwise provided in this Act, a worker shall be allowed a weekly rest period of at least twenty- four continuous hours.

(d) If the circumstances of a particular employment so require, however, an employer may, after consultation with a worker or his representative, at not less than three days' notice, grant a different period of at least twenty-four continuous hours in that week as the period of weekly rest for the employee concerned.

(e) Whenever a worker is required to work on his day of weekly rest or on a public holiday, an employer shall pay the worker for the work at double the worker's wage rate for an ordinary workday.

(3) Subsection (1) and (2) shall not apply to Sectors in Schedule.

196. Calculation of wages.

(1) A normal hourly rate of wages for a worker other than a watchman shall be calculated as follows;

(a) Where a worker is employed on a monthly contract, that worker's monthly wages shall be divided by 195 hours

(b) Where a worker is employed on a weekly contract, that worker's weekly wages shall be divided by 45 hours

(c) Where a worker is employed on a daily contract, that worker's daily wages shall be divided by the worker's daily normal hours of work.

(2) A normal hourly rate of wages for a watchman shall be calculated as follows;

(a) Where a watchman is employed on a monthly contract, that worker's monthly wages shall be divided by 240 hours.

(b) Where a watchman is employed on a weekly contract, that worker's weekly wages shall be divided by 60 hours.

(c) Where a watchman is employed on a daily contract, that worker's daily wages shall be divided by the worker's daily normal hours of work."

Clause 196-202 were approved.

Clause 203 was approved with the following amendment:

Amendment No. 21

In Clause 203, sub-clause (5), line 3, after the word **“exceeding”**, delete the word **“one”** and substitute with **“ten”**.

Clauses 204-220 were approved.

Clause 221 was approved with the following amendment:

Amendment No. 22

In Clause 221, after (e), delete the paragraph and substitute with:

“commits an offence and is liable on conviction to a fine not exceeding Five Thousand Maluti or imprisonment for a term not exceeding three years or both”

Clauses 222-225 were approved.

Clause 226 is approved with the following amendment:

Amendment No 23

In Clause 226, sub-clause (3), after the word **“may”**, insert the words **“in consultation with the Committee”**.

Clause 227 was approved.

Clause 228 is approved with the following amendment:

Amendment No 24

In Clause 228, line 1, after **“section 227”**, delete the words **“a direction”** and insert the words **“a directive”**.

Clause 229 was approved.

The first Schedule and second schedule were approved.

The Third Schedule was approved with the following amendment:

Amendment No. 25

In the Third Schedule, at the end of “**Form B**” delete “Commissioner of Oaths and substitute with “**Director National Employment Service**”.

Forth Schedule was approved with the following amendment:

Amendment No. 26

In the Forth Schedule, in Form B, delete the words “**Minister of Public Service, Labour and Employment**” and substitute with “**Director National Employment Service**”.

The fifth schedule was approved.

6. CONCLUSION

The Portfolio Committee on the Economic and Development Cluster submits this report and recommends for its adoption by the House.

Annex 1: List of Names of Honourable Members of the Portfolio Committee on the Economic and Development Cluster

1. Hon. S. Hakane
2. Hon. M. Hloaele
3. Hon. N. Seetsa
4. Hon. M. Masoetsa
5. Hon. M. Maeaa
6. Hon. J. Lekunya
7. Hon. H. Letšaba
8. Hon. M. Mpeoa
9. Hon. M. 'Muso
- 10.Hon. L. Monaheng
- 11.Hon. M. Seatile
- 12.Hon. L. Mosoang
- 13.Hon. I. Rantsho
- 14.Hon. M. Motsoasele
- 15.Hon. K. Motseki
- 16.Hon. I. M. Monokoane
- 17.Hon. N. Moshoeshoe
- 18.Hon. V. Tsheka
- 19.Hon. L. L. Lethole
- 20.Hon. M. C. Tekane
- 21.Hon. K. V. Pholosa
- 22.Hon. T. Malataliana