

# Labour law compliance in agriculture

## Surprising results

Most people believe that working conditions in the agricultural sector are some of the worst in South Africa. However, CCMA statistics reveal interesting new trends. Commissioner **Glen Cormack** analyses trends over the last five years.

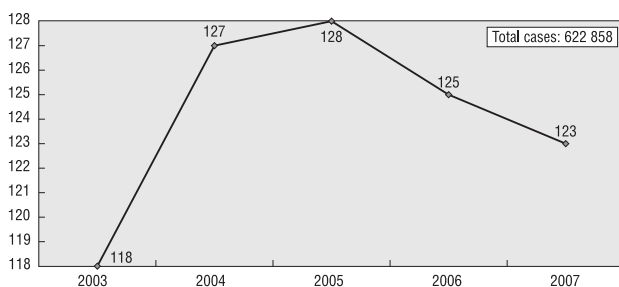
**A**griculture in South Africa is a key employment sector in our economy. Depending on which articles you read, the sector is either still mired in repressive labour practice, or striving to transform relations, or both. Here we look at one aspect of labour relations in the sector, namely disputes and trends that farm workers refer to the Commission for Conciliation, Mediation & Arbitration (CCMA). While it is only one indicator of trends, it is important because the CCMA is the only official institution where farm workers refer labour disputes in terms of unfair dismissals, unfair labour practices and unfair discrimination for conciliation.

The analysis covers a period of five years from 2003 to 2007 and the statistics are from the CCMA Case Management System.

### NATIONAL DISPUTE TRENDS

Graph 1 shows a decreasing trend in disputes across all economic sectors over the last four years, from 127 000 disputes in 2005 to 123 000 in 2007 – a 3% decrease (despite a slight peak in 2005 of 128 000).

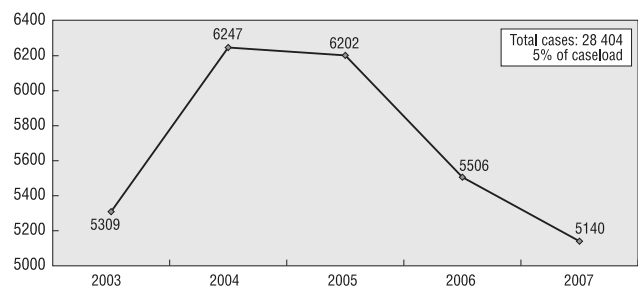
Graph 1: Total referrals (all sectors) per operational



### DISPUTES IN AGRICULTURE

Graph 2 shows the number of disputes referred to the CCMA in the agricultural sector. It reveals an 18% reduction over 2003-2005 which positively exceeds the national trend by a significant 15%.

Graph 2: Referrals for agri-sector



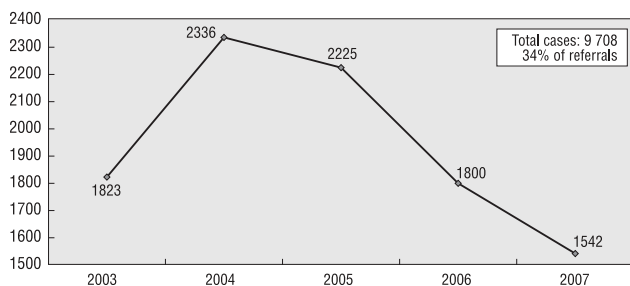
### WORKERS' KNOWLEDGE OF RIGHTS

A measure of workers' knowledge of asserting workplace rights is the number of non-jurisdictional referrals of disputes to the CCMA. These are disputes which are incorrectly referred including matters that do not meet the definition of 'unfair' in the Labour Relations Act (LRA),

as well as incorrectly completed referral forms.

Graph 3 shows a positive decreasing trend over the last four years of 34%. Out of jurisdiction referrals accounted for 30% of all referrals in agriculture in 2007. This compares favourably with a national figure in all sectors of 32%.

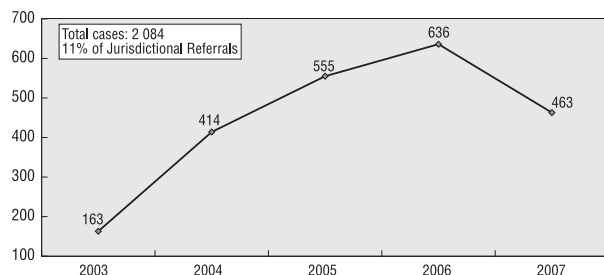
**Graph 3: Out of jurisdiction**



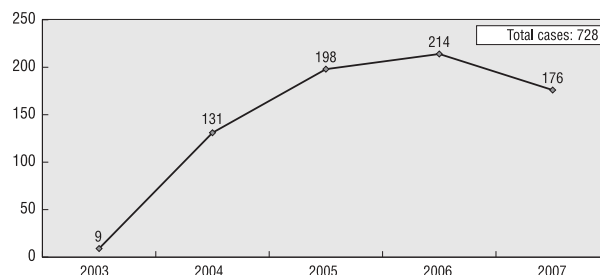
**NON-ATTENDANCE AT CCMA**

An important indicator of the 'health' of the CCMA's labour dispute resolution processes is the measure of non-attendance at case set downs. Non-attendance by workers alleging unfair labour practices by farmers shows an improvement of 27% over the last year. Again, this 13% non-attendance in 2007 compares favourably against the national average of 17%. The improvements across all processes for 2007 were: attendance at conciliation 40%, at conciliation-arbitration (Con-Arbs) 18%, and at arbitration 26%.

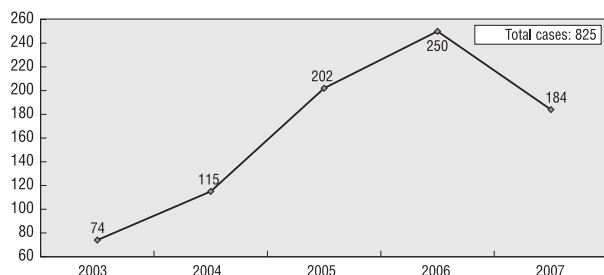
**Graph 4.1: Total dismissal by applicant**



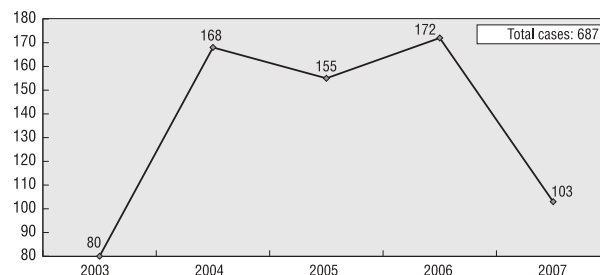
**Graph 4.2: Conciliation/Arbitration**



**Graph 4.3: Arbitration**



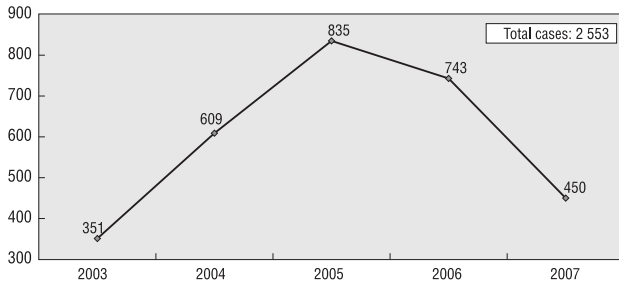
**Graph 4.4: Conciliation**



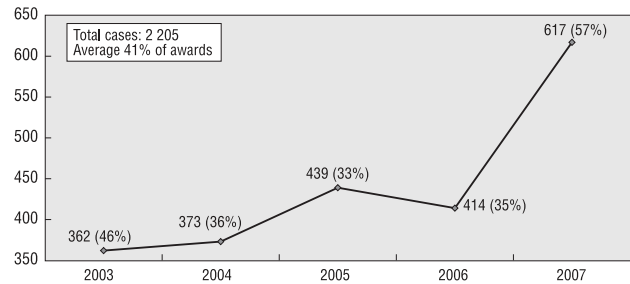
**EMPLOYEE/EMPLOYER AWARDS**

The findings of fairness/unfairness of disputes that proceed to arbitration in the CCMA (Graphs 5 and 6) show that over the five-year-period, farm workers proved their allegations in 55% of awards. However, in 2007 farmers rebutted workers' allegations of unfair labour practices in 57% of cases in arbitration. Yet again, this trend compares positively against the year-to-date national average of 40% in favour of employers. The higher percentage of successful outcomes for employers probably means that employers are applying the law fairly when dismissing. This may in part be a result of efforts that farming associations have put into training farmers on labour legislation.

Graph 5: Awards in favour of employee



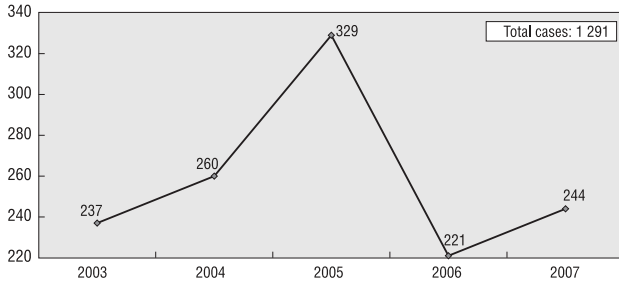
Graph 6: Awards in favour of employer



**COLLECTIVE BARGAINING**

Wages and conditions of service are determined by the Sectoral Determination for Farm Workers issued by the Minister of Labour, i.e. minimum levels set by the state.

Graph 7: Mutual interest cases conducted



This is necessary because of low levels of trade union organisation of farm workers. Dozens of unions are active in this sector but union levels are low at less than 10%.

Despite a low union presence, the CCMA has conciliated 1 291 matters of mutual interest, namely collective bargaining of wages and other conditions of service. The agreed conditions arising out of this are above the minimum levels determined by the minister in agriculture in the period 2003-2007 (Graph 7).

These statistics show disputes referred to the CCMA and collective bargaining negotiations successfully completed without the need to refer the matter to the CCMA. Promotion of collective bargaining is a central objective of the LRA.

**RESPECT FOR LAW**

An indicator of respect for the LRA is the level of non-

compliance by farmers with CCMA awards issued. This is measured by the number of instances where farm workers needed to approach the Labour Court via the CCMA for enforcement of awards through the Section 143 Writ of Execution Applications. Over the last three years the trend has been a positive decrease to 12% of awards issued in 2007, compared to a current national all sector average of 31% year-to-date.

**SUMMARY**

These positive trends of improvements in labour relations in the agricultural sector can be attributed to factors such as:

- the Department of Labour's focus on agriculture in terms of compliance with labour legislation
- the dispute prevention and awareness-raising programmes initiated by the CCMA
- efforts by the Department of Agriculture and Land Affairs to transform agriculture
- labour market forces arising from the unionisation of farm workers
- the growing willingness of farmers and their organisations to transform labour relations in this vital employment and economic sector
- the on-going efforts of NGOs and advice offices in agriculture
- the growing awareness of workplace rights amongst the farming community.

However, significant room for improvement in labour relations in agriculture still exists. The increasing social dialogue between social partners provides an excellent base to move from in this undertaking.

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*Glen Cormack is a senior commissioner: Dispute Management and Prevention in the CCMA national office.*