

# Leading the flock

*interviewing Minister Membathisi Sheppard Mdladlana*

**Bulletin:** *What is your vision of the economy and the workplace in five years time?*

**Minister:** Our vision is to ensure an appropriate balance between flexibility and security in the labour market. It also revolves around creating an enabling environment for job creation - thus, the commitment to implement fully the agreements of the Presidential Jobs Summit in order to tackle the scourge of unemployment. The skills revolution has commenced with the passage of the Skills Development Act and the Skills Development Levies Act. On the whole, government's will is to strive towards economic growth, investment and job creation.

**Bulletin:** *You state in your 15-point plan that you wish to balance flexibility and security. How can this be achieved?*

**Minister:** There is a great need to attract investors into the country so they can invest with the intention of creating jobs. Government is determined to do everything in its power to create jobs. The government is aware that much of the new legislation is still in the process of being operationalised but will look at concerns raised by parties to identify whether they are transitional or permanent and whether they require legislative or institutional change. We will also look at whether they reflect problems

*by Tanya van Meelis*

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with particular provisions or their application. However, it is also the duty of all responsible South Africans and the government to ensure that workers' rights are upheld. We move from a premise, which says that workers' rights are human rights too. South Africa is entrenching a culture of human rights. The need for striking a balance between job security and ensuring flexibility of our laws cannot be over emphasised. This must be done through a transparent process underpinned on co-ordination by all social partners. All concerned parties can do this through creativity and innovation. On the whole, we cannot merely focus on making the markets flexible at the expense of job security. In a country where people have to be employed by others for survival, we need to see it as a priority to create new jobs and to retain the existing ones.

**Bulletin:** *Do you think the LRA has been an effective piece of legislation?*

**Minister:** The LRA's objective is to promote economic development, social justice, labour peace and democracy in the workplace. Through the Act we have established formidable institutions to deliver a stable labour relations system. These institutions include bargaining councils, the CCMA, the Essential Services



Committee and the Labour Court. The Act is a piece of legislation, which regulates the relationship between workers and the employers. Its thrust is to ensure that we reduce adversarialism and that we entrench a co-ordinated, co-operative and pre-emptive approach for a better economy.

We have now completely overhauled our labour relations system to address the high level of strikes through high quality conciliation, mediation and where the parties so request, through arbitration. In a nutshell, the LRA is very relevant to our conditions and has been an effective piece of legislation.

I say that, knowing that there is still a lot more that has to be done in making sure that we achieve all the objectives of the Act. I wish to make it clear that the LRA and all other government policies need all South Africans to contribute unselfishly towards their implementation. The sound implementation of the LRA is my responsibility as a South African citizen and as the Minister of Labour - but it is also your responsibility too as a citizen of the country.

*Bulletin: What is your assessment of the implementation of the BCEA?*

*Minister:* The BCEA was formulated to address certain shortcomings. The shortcomings relate inter alia to the inadequate protection for vulnerable workers such as domestic, farm and part-



*Minister Membathisi Mdladlana.*

time workers. There was a non-existence of mechanisms to set minimum wages for farm and domestic workers. Child labour and gender discrimination, particularly, in relation to maternity leave had to be dealt with.

These are some of the problems that the BCEA addresses. We are determined to continue with the steady implementation of the Act. However, there are parties who have raised some concerns about the Act. For instance, that a reduction of working hours for the workers in the security sector could result in the cutting of their wages.

This is one of the concerns that needs to be addressed. However, we are continuing with sectoral determinations to be made in accordance with Section 51 of



the Act. I am convinced that when the process of making determinations for the various sectors has been completed we shall have created an environment for the betterment of the lives of vulnerable workers.

*Bulletin: You have previously stated that business perceives labour laws to be problematic, but that this is merely a perception that has not been substantiated. Has business been able to substantiate its claims to your satisfaction? If the problem is merely one of perception, what do you intend doing to rectify it.*

*Minister:* Yes, there is a perception out there that aspects of our laws are problematic. On the whole though, business indicated during recent talks I had with them that they agreed with the general principles and thrust of our labour laws. I acknowledge that there are some concerns about our laws and some unintended consequences. However, some of these concerns may not necessarily need amendment of the laws. The other phenomenon is that many of those who claim that our laws are causing problems do not have a clear understanding of them.

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*'I am certain that as the labour laws are increasingly tested in practice and prove their worth, the negative perceptions will subside and fade'.*

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It is also clear that some international investors come by their fears, in a measure, from the standpoints of our local business people. However, the President has made it clear that we have to address the

perception about our laws. I am certain that as the labour laws are increasingly tested in practice and prove their worth, the negative perceptions will subside and fade.

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*'I do not believe that our labour legislation as such is creating an inflexible labour market that has led to high levels of unemployment'.*

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*Bulletin: Given the discussions you have been having with business and labour, and your own assessment of legislation, what do you think the strengths and weaknesses of the legislation are? What change process will you engage in and what substantial changes do you anticipate regarding legislation?*

*Minister:* As I have already said, I do not think there is a need for a wholesale change of our laws. Yes, there are concerns and those concerns have to be addressed. The strengths of our laws lie in their legitimacy and revolve around renewing our labour environment and entrenching workers' rights, which are human rights.

I wish to make it clear that I do not believe that our labour legislation as such, is creating an inflexible labour market that has led to high levels of unemployment. However, we started a process of listening to organised labour, business and community representatives with regard to the impact of our laws and said that we would make adjustments, where necessary.

I have repeatedly said our democratic government is prepared to listen to views from civil society. It is a fact that policies are informed by realities on the ground and those realities are not static. Therefore,





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we cannot have policies that do not take into account that real conditions do change.

However, there must be convincing facts that the conditions that inform the policies have really changed and that there is a need to make adjustments. A weakness may have been the sheer magnitude of the change, which in its very nature may have had some unintended consequences.

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*'Collective bargaining has to be strengthened'.*

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*Bulletin: What is your assessment of the labour market chamber at Nedlac?*

*Minister: The labour market chamber at Nedlac is the most successful chamber. I say so because it has dealt with a large volume of new labour laws; has done the*

demarcation of several industry sectors for collective bargaining purposes; and has been instrumental in the restructuring of various tripartite institutions.

However, there is still a need to improve on some aspects of the workings of other chambers. We need leaders at Nedlac who are innovative and who put the interest of the whole country first.

*Bulletin: What is your view on the current industrial action that is taking place generally and the industrial action taking place in the public sector specifically?*

*Minister: The current industrial action taking place in the public sector to a large extent represents a normal learning curve between the employer and the unions. With the restructuring of industries and industrial policies, global competition, the extent of retrenchments and the tight local and foreign economic conditions,*

one must expect that there will be a heightening of industrial action. By comparison with the total economy, however, the position remains within bounds.

*Bulletin: What do you regard as the major challenges ahead for government (specifically the Department of Labour), business and labour?*

*Minister:* Government's challenge is to consolidate the smooth functioning of the new laws and to ensure a professional, accessible dispute resolution service to employers and workers.

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*'It is the duty of all responsible South Africans and the government to ensure that workers' rights are upheld.'*

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Further stout efforts are being made to inform and educate workers and employers about our laws so they can take full advantage of them. Collective bargaining has to be strengthened further as well. We need to see the CCMA intervening more pro-actively both to prevent and resolve strikes. All these are the challenges we are faced with.

The workers are eager to see the betterment of their lives. The challenge for government and specifically the Department of Labour is to render services to the South African public in an efficient and effective manner. Business has a challenge to contribute to the development of the country by the proper implementation of the new labour laws. It has to contribute to making the lives of all South Africans better. It is encouraging to see some of the companies committing themselves to rebuilding and putting up new structures for schools.

However, they also have to see to it that the laws we have introduced are implemented in the right spirit and that we continue to find new ways of making sure that we entrench worker rights. The business community is faced with the challenge of convincing the world that it is not only concerned about making profits but that it can also play a role in the reconstruction and development of our country.

Labour as well has to contribute more than ever. The laws that have been introduced are new tools which can be used to effect change at the workplace. However, central to using the laws is knowing them better and using them to the full, bearing in mind the constraints and restraints.

*Bulletin: How do you intend improving co-ordination between the different ministries and departments on policy affecting labour, and specifically occupational health and safety?*

*Minister:* The ministries liaise with each other so as to effect co-ordination and this is so particularly in the case of Mineral and Energy Affairs. The department is committed to improving efforts aimed at reducing accidents and fatalities at the workplace.

*Bulletin: What is your view of the South African Labour Bulletin?*

*Minister:* Well, it has been around for sometime now. It is a publication that contains important information about South Africa's labour market and makes a valuable contribution to our understanding the needs of the labour movement. I should like to thank you for giving me the opportunity to deal with some issues in this edition. I wish all the staffers of the *South African Labour Bulletin* well. I thank you. ★