

The Manpower Training Act

The CENTRE FOR APPLIED LEGAL STUDIES (CAL S) assesses the Manpower Training Act

The Manpower Training Act 56 of 1981 is the least known of the laws regulating labour relations. However, if trade unions wish to represent the interests of their members on issues such as training, and ensure they have fair access to training facilities, they will have to become familiar with it. Major changes were made to the law in 1990. These are designed to shift much of the responsibility for administering training from the government to the private sector. Unions are already being called upon to respond to private sector initiatives in this area.

History

The Manpower Training Act was enacted in 1981 following recommendations of the Wichahn Commission. It replaced a large number of laws which had created racially segregated institutions for the training of employees. It was the first consolidated law to regulate and promote training in all sectors of the economy. In 1990, the Act was changed to encourage greater private sector involvement in training.

One of the central institutions dealing with training is the Manpower Training Board. This is an

advisory and research body which advises the Minister of Manpower on training matters. Representatives of the state, labour and capital sit on the Board.

Before the amendments made to the law last year, the Manpower Training Board appointed *training committees* to administer training in particular areas and industries. These committees had equal numbers of employer and employee representatives, but they have now been replaced by *training boards*. The training board is the institution that employees and trade unions are most likely to come across when dealing with issues related to training.

Training boards

Training boards may be established by employers or trade unions (either on their own or together), or by an industrial council. Once established, the training board can apply for registration in its industry from the Registrar of Manpower Training. Like industrial councils, the training board will operate for a particular industry (for example, the metal industry or the chemical industry), either in a particular region or nationally. Only one training

board may be accredited for a particular industry and area.

Although both employers and trade unions can establish training boards, it is likely that the initiative to establish training boards will come chiefly from employers. The Act does, however, give the Registrar of Manpower Training limited powers to ensure that employees in the industry concerned have some representation on training boards. However, there is no requirement that employees or their trade unions have equal representation with employers. This is a change from the previous system where the training committees appointed by the Manpower Training Board had equal numbers of employer and employee representatives.

An important feature in the Act is that an employer must negotiate with any group of employees over the establishment of training boards. This provision appears to apply in at least two situations.

Firstly, employees would be entitled to demand, as a collective bargaining issue, that their employer establishes a training board for their enterprise. Secondly, an employer who wishes to establish a training board would have to negotiate with their employees on the formation of the board.

The usefulness of this provision may be limited by the fact that the duty to negotiate in the Act relates to *individual* employers, and only the country's



Training for the workforce is a collective bargaining issue

Photo: Tsaks Mokolobate/Learn and Teach

major employers (such as TRANSNET, ESCOM or ISCOR) are likely to form their own training boards.

However, it may be possible to argue that the provision also places a duty on groups of employers or employers' associations who wish to form training boards, to negotiate with their employees on the matter. It may also be possible to argue that

the refusal by employers or employers' organisations to negotiate with representative trade unions on matters of training would be an unfair labour practice.

Training boards have wide functions. They are under a duty to ensure that their industry has enough trained personnel, and that employees in the industry are offered re-training so they can upgrade

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their skills on an on-going basis. In addition, the training board is responsible for administering apprenticeships in their industry.

The apprenticeship system

Traditionally, black workers were excluded from training in the apprenticeship system. The apprenticeship system combines formal training at an institution such as a technical college with on-the-job training and experience. While there have been no racial bars in the apprenticeship training system since 1981, informal job reservation has limited the number of black apprentices and qualified artisans.

The 1990 amendments to the Manpower Training Act have changed the system of apprentice training. Now apprenticeship training consists of a number of separate training modules or short courses which the apprentice must complete. An apprentice may only move from one module to the next after he or she has passed a proficiency test. Apprenticeships in different industries vary as to the amount of formal training and work experience the employee must have before becoming an artisan, but all involve a combination of formal training and on-the-job experience.

The conditions of apprenticeship in an industry are set by the Minister of Manpower on the recommendation of the training board in the industry. These conditions

include the qualifications needed to become an apprentice, and could be used to exclude employees without adequate formal education.

The Manpower Training Act also empowers the Minister of Manpower to establish training schemes. The Act has been used to provide unemployed people with basic skills training so as to allow them to enter the job market. In addition, the Minister has established training schemes in a wide range of occupations including the training of computer programmers.

Training centres and training in labour relations

The Act also provides for the establishment and voluntary registration of three types of training centres: regional, industry and private training centres. An interesting provision in the Act is that nobody may conduct training in labour relations at a training centre unless he or she is registered with the Department of Manpower. This restriction does not apply to registered trade unions, employers' organisations, federations, industrial councils, or to employers providing training to their own employees. The prohibition however could apply to organisations such as consultants, unregistered trade unions or aid or support organisations.

A little known provision in the Act provides for financial grants to be paid to registered trade unions, em-

ployers' organisations or federations, to cover the cost of approved labour relations training. However, in 1988 (according to the Department of Manpower Annual Report) no requests were made for this type of financial aid.

Funding

The Act also provides for the funding of training. It creates the Manpower Development Fund which grants loans to training centres and industrial council schemes for capital expenditure. In addition, the Act allows industrial councils or groups of employers to impose levies on employers to raise funds for training schemes. Up to 1990, employers who ran training schemes received tax advantages, but this has now been scrapped by the Receiver of Revenue.

Victimisation

Like all other labour laws, the Manpower Training Act contains a victimisation provision. This makes the penalisation of an employee (by, for instance, dismissal or reducing conditions of employment) for trade union activities a criminal offence. The Manpower Training Act applies to all sectors of the economy. Therefore it appears that the victimisation provision offers protection to state employees, farm workers and domestic workers who are excluded from most other labour legislation. This provision may be of use to trade unions in these sectors, until they are incorporated under the Labour Relations Act. ☆