

Unions balk over 'secret ballot' warning

Most of SA's unions and labour federations have reacted negatively to the statement by the office of the Registrar of Labour Relations, Advocate Lehlohonolo Daniel Molefe, that it was now illegal to embark on strike action before conducting a secret ballot of members, says **Legalbrief**. The National Union of Metalworkers of SA (Numsa) said it intended to challenge the decision by the Department of Labour to make balloting compulsory before engaging in any strike. **Engineering News** reports that the move has irked general secretary Irvin Jim who said: 'The capitalist ANC government is once again, pandering to white monopoly capital by implementing this law.' He said various effective remedies exist in the event of non-compliance. **'But with the new amendments, the judges now have the power to decide whether workers can continue to strike or picket.** This is an unjustified attack on the right to strike and it takes the power away from workers to decide when a strike can end,' said Jim.

The decision has brought to the fore tensions among labour unions in SA. According to a **Sowetan** report, while the SA Federation of Trade Unions (Safu) and its affiliated unions have not taken kindly to the new legislation, **the Cosatu-aligned National Union of Mineworkers (NUM) believes the law will democratise the work space.** General secretary of NUM, David Sipunzi, said at its recent congress that the union had amended its constitution to be in line with the Labour Relations Amendment Act of 2018.

Cosatu has, however, called for the Minister of Employment and Labour to provide clarity on the statement, also calling the statement false and inflammatory. Matthew Parks, the Cosatu parliamentary co-ordinator, is quoted in **The Mercury** as saying: 'The Department of Labour issued a factually devoid statement, indicating that it is now illegal for workers to embark upon a strike without balloting,' said Parks. **According to South African law, Parks said, 'illegal strikes' do not exist.** There were only protected (where a strike certificate is issued by the CCMA) or unprotected strikes, he said. The union said that, while balloting had always been a necessity, it did not make a strike illegal.

Meanwhile, mining industry union UASA has voiced its support for secret balloting, saying it would help prevent unnecessary strikes, reports **Miningmx**. **'The new rules will bring an end to wild strikes without member consultations in various industries where union leaders were out to settle personal goals using the union's name,'** UASA said. UASA said it had implemented secret balloting before the change in the law. The report says the comments will be music to the ears of Neal Froneman, CEO of Sibanye-Stillwater, who said during the firm's interim presentation on 29 August that the registrar and the CCMA should 'play their roles' by ensuring the new legislation was implemented.

The Nedlac agreement on a new and higher minimum wage came with a caveat insisted on by business: that to have a legally protected strike, workers would have to first have a secret ballot. And according to a **Daily Maverick** report, from the unions' perspective, the toss-up between getting a higher minimum wage and simultaneously conceding the strike-ballot issue was a tricky choice, but on balance, worth it. But, the report says, there is a complication here – **because of the traumatic split in Cosatu in 2014 and subsequent departure of the Numsa, a big chunk of the union movement was not represented in Nedlac at the time the agreement was struck.** The report says these developments initiate two new questions in SA labour relations: first, will the secret ballot requirement, in fact, reduce strikes? And second, what chance do the challenging unions have in the Constitutional Court?