

From the publishers

Workplace Law

Seventh edition by John Grogan

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480 pp

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Workplace Law was first published in 1996. Except for the year 2002, a new edition has appeared annually since then, each of which begins with the increasingly irrefutable observation that '[f]ew areas of the law have undergone such frequent and dynamic change in more recent years than the law relating to employment.' Change also means more, since the book has grown appreciably over time and now runs to some 400 pages. Both these realities prompt the question: Is the book not therefore an obvious candidate for the loose-leaf format?

As sometime professor, practitioner, arbitrator, CCMA commissioner and acting judge, the author has experienced his labour law from most angles, and has succeeded in marshalling his material

into a work which is both comprehensible to readers without legal training, and of use to practitioners and students alike – one of his aims. Although there has been certain juggling of the order of topics the structure of the latest edition and the organization of its contents follow the same logical and convenient pattern as before. Since the impetus for the current edition comes from the first major amendments to the LRA and the BCEA, the newly-worked portions are found especially in the areas of retrenchment procedures, transfers of businesses as going concerns in terms of Section 197, and the changes introduced by the BCEA Amendment Act 11 of 2002. Elsewhere the text has been updated to incorporate the latest judgments of the Labour Court and Labour Appeal Court.

Just when the principles governing retrenchment had settled into what was (for labour lawyers) an area of relative certainty, the legislature introduced section 189A. Whereas the changes to section 197 end a number of existing controversies, section 189A introduces a new crop. Even after several readings the section is virtually impenetrable. It is

unfortunate then that section 189A is dealt with so shortly at the end of chapter 13, and without any real analysis of its provisions and consequences. Puzzled practitioners will find little practical assistance in charting their way through the new procedural hazards of retrenchment in the two odd pages dealing with the topic. The chapter on transfers of business on the other hand gives a full analysis of the change in the law. The original section 197 – which spawned many diverse interpretations – has been modified by way of 'clarification' in the new section 197, and the book deals helpfully with this in chapter 14.

A minor point: it is frustrating to find quotations from judgments in the text which are unsupported by page references in those judgments.

Workplace Law continues to be a comprehensive and readable account of the important principles governing, and the sources of, labour law. Heres hoping that nearly 25 years after Wiehahn the topic will soon stabilise sufficiently to allow the text book writers a brief respite.

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Delay in criminal prosecutions

Statement by the Chief Justice and the National Director of Public Prosecutions

We consider it necessary to respond to a report in the *Cape Argus* of 27 May dealing with the causes of delay in criminal prosecutions in the high courts.

The delay in bringing accused persons to trial is a matter of concern to the judiciary and the Directorate of Public Prosecutions. It affects proceedings in all high courts and magistratyyys courts throughout the country. It is a complex problem which has been the subject of ongoing discussions within the judiciary and between the judiciary, the National Directorate of Public Prosecutions, the Department of Justice, the South African Police Services, the Department of Correctional Services, the Legal Aid Board, the legal profession and other role players involved in the process of investigating and bring suspects to trial and conducting the resultant court proceedings. Delays arise at different stages in this process and the result is that matters are not brought to court promptly, and often when they do reach the courts, they are unable to proceed because for one reason or another they are not ready for trial.

On 26 May these issues were discussed at a meeting in Cape Town called for this purpose by the judge president of the Cape high court. The Chief Justice was present at this

meeting, as was Justice J Kriegler, who has been asked by the Department of Justice for advice as to how these issues can best be resolved. The meeting was also attended by senior representatives of all bodies involved in the administration of justice in the Western Cape as well as representatives of the advocates' and attorneys' professions.

It was agreed at this meeting that statistics would be collected to identify the causes of delays, and that regular meetings of the principal role players would be convened by the judge president to examine these statistics, to discuss the causes of delays revealed by the statistics, and to seek remedies for them.

Mr Kahn was one of the representatives of the National Directorate of Public Prosecutions who attended this meeting. He has not, as suggested in the newspaper report, been appointed to investigate the entire judicial system including the way high courts function. His mandate from the National Director of Public Prosecutions is to investigate and report to him on matters relevant to his department concerning delays in the criminal justice system. Similar investigations will no doubt be undertaken by the other role-players who attended the meeting on 26 May and these will inform subsequent discussions on such matters.

A Chaskalson, Chief Justice

B Nguka, National Director of Public Prosecutions.

3 June 2003