

The day before the case was due to be heard in court, Raleigh Cycles asked for a settlement. The workers were determined to get a settlement as they had heard that the firm had set up a liaison committee consisting only of the indunas — this would have made a works committee impossible (See article on the Bantu Labour Relations Regulation Act.)

The workers eventually agreed to settle after the following offer was made by Raleigh Cycles:-

- the dismissed workers would be reinstated
- they would receive backpay from the date they had been wrongly dismissed
- no workers would be victimised for forming works committees.
- the firm would pay most of the legal costs
- the firm would co-operate in forming works committees in the various departments.

This settlement is an undoubted victory for all workers in having their very limited rights recognised.

(NOTE: The Urban Training Project calendars are available at the Western Province Workers Advice Bureau.
The Advice Bureau will also be able to provide workers with legal assistance if similar cases arise in Cape Town.)

THE BANTU LABOUR RELATIONS REGULATION ACT.

Following the Durban strikes by African Workers earlier this year and the calls by many people for a revision of the laws affecting African workers, Parliament approved the Bantu Labour Relations Regulation Act in June. This new Act replaces the old "Bantu Labour (Settlements of Disputes) Act".

This Act has new important provisions for worker organisation and for legal strikes by African workers. A summary of the provisions is printed below. Copies of this summary are also available from the Wages Commission or from the Western Province Workers Advice Bureau.

BANTU LABOUR RELATIONS REGULATION ACT.

The Act now provides for two forms of worker organization at the workplace

1. Liaison Committees

How Established:

By agreement between employer and employee.

Size of Committee:

By agreement between employer and employee.

Who is Elected:

Half of the committee is elected by the workers and half appointed by the employer as his representatives.

Period of Office:

By agreement between employer and workers.

Office Bearers:

Chairman can be designated by employer or decided by the committee. The Chairman need not be a member of the committee.

Purpose:

The liaison committee considers matters of mutual interest to both workers and employer and makes recommendations to the employer concerning conditions of employment or any other matter that the committee may consider expedient in accordance with the rules adopted by it.

2. Works Committees.

Where possible:

At a workplace or section of workplace employing 20 or more African workers and where no liaison committee exists.

How a Works Committee is Formed:

A majority of workers at the workplace or section of it concerned must put their request for the formation of Works Committee to the employer. The employer must inform the inspector and arrange for the election.

The employer can take the initiative to have a works committee elected even if the workers have not requested it. The employer must arrange for a meeting of the workers as soon as possible after receiving their request for the formation of a works committee.

If a Works Committee already exists the employer must arrange for a new election within 30 days after the term of office has expired.

Period of Office:

Not less than one but not more than two years as decided by the Workers at the election.

Number of Members:

The number of committee members must be not less than 3 and not more than 20. The total must be not more than 1/4 of the workers at the workplace.

The number to be elected is decided by the workers at the election meeting. For each member elected an alternate must also be elected.

Vacancies:

Vacant positions that may occur are filled by the committee from the alternates. Members reaching the end of their term of office may stand for re-election.

Office Bearers:

At its first meeting the Works Committee must elect a Chairman and Secretary from the members.

Rules:

The works committee may adopt rules for

- (i) the calling and conduct of meetings, and procedure at such meetings.
- (ii) the admittance to meetings of workers who are not Committee members or the admittance of the employer.
- (iii) any other matters necessary for the proper functioning of the Committee.

Functions of a Works Committee:

- 1) To communicate the wishes, aspirations and requirements of the workers represented by the Committee to the employer.
- 2) To represent the workers in negotiations regarding conditions of service or other matters relating to their employment.

The Chairman of the Committee acts as a link between the Committee and employer and Regional Committee.

Protection against Victimization:

An employer who dismisses or demotes a worker in any way, because the worker has participated in the election or activities of a Liaison Committee or Works Committee, is guilty of an offence.

The employer, on conviction, is liable to a fine of up to R600 or 2 years imprisonment or both.

The employer may be ordered to reinstate the worker in his former position, or pay him up to R400 compensation, or both.

Note: Liaison Committees vs. Works Committees.

The Liaison committee is a new idea first introduced by this Act. Which is a better way of representing workers' interests, Liaison Committees or Works Committees ?

On Liaison Committees workers and employers are equally represented. The Chairman can be appointed by the employer. Thus it is not a body workers themselves can control. And what chance will the workers on the Committee have to decide on a common policy ? There is also no provision for a report back by the Committee members to the workers in the workplace; and there is no way for these workers to give their representatives a mandate. The liaison committee need not have the support of, or represent the interests of, workers. It could consider the interests of workers or employers.

The Works Committee, by contrast, is a body elected by the workers solely to represent their interests. It operates independently from the employer, and can even exclude him from its meetings if he wants to attend and the members do not wish it. The Committee could, and should, have the confidence of the workers. It can negotiate with employers about the workers' wages and conditions of work. The Chairman of the Works Committee acts as a link between the Committee and the Regional Committee, and members of the Works Committee must be co-opted onto the Regional Committee to help settle any dispute that arises.

If works committees are established for two or more sections of one firm, their chairmen and secretaries may combine to form a co-ordinating Works Committee. This body can then negotiate with the employer on matters that affect all the workers in the various sections; and so the different Committees can form a common policy to put to the employer.

Therefore it seems that Works Committees are a more effective way of representing workers' interests than liaison committees. But no Works Committee can be formed at a workplace where a registered liaison committee exists. Thus workers should be very cautious about agreeing to serve on Liaison Committees and they should preferably form Works Committees before their employers attempt to form Liaison Committees.

The Right to Strike:

The Act no longer prohibits all strikes by African workers; it now prohibits workers from striking under certain conditions only.

Workers may not strike where:

1. They are covered by a current agreement made under the Industrial Conciliation Act;
2. They are covered by any wage order that is less than one year old;
3. They work for a) any local authority;
b) any employer providing light, power, water, sanitation, passenger transport, or a fire extinguishing service;
c) they are employed in the supply or processing of perishable foodstuffs, or the supply of fuel to local authorities or others providing essential services; if the Minister of Labour extends the prohibition on strikes to such industries;
4. An unresolved dispute has been referred to the Wage Board for a recommendation;

5. None of (1) - (4) apply, and a dispute is referred to a liaison committee, works committee or co-ordinating works committee, which is unable to resolve the dispute and unless 30 days have passed since the dispute was reported to the Bantu Labour Officer; or
6. No liaison or works committee exists in a workplace and a report of a dispute has been submitted to the Bantu Labour Officer and until 30 days have elapsed since the submission of such report.

(N.B. No strike can take place until 30 days after the reporting of a dispute to the Bantu Labour Officer - the reporting of a dispute to the Officer before a strike is mandatory).

If conditions (1) - (4) are not present, and if (5) and (6) are fulfilled, the Bantu Labour Relations Regulation Act does not prohibit strikes by African workers. Workers can still be prevented from striking, however, under the Masters and Servants Acts contract workers may break their contracts if they strike. The Riotous Assemblies Act can also be used to prevent striking workers gathering together.