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NEDLAC LABOUR LAW REFORM

Optimising labour law for a just transition

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Optimising labour law for a just transition

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ABSTRACT

This report examines the impact of climate change (focusing on the coal-based energy sector as a blueprint for other sectors) and the decent-work connection between climate change law and fundamental principles and rights at work, which are the foundations of labour law. The report considers relevant aspects of labour market regulation – ranging from the provisions of labour law and arrangements for sectoral collective bargaining, to active labour market policies and integrated regulation, such as social and labour plans – that can be optimised for a just transition.

Challenges in planning and implementing just-transition processes occur within a regulatory space spanning a range of laws and legal fields and consequently cutting across various ministries and institutions in all spheres of government (national, provincial, and local) and at all levels of labour governance (workplace, sectoral, and national). In this regard, the report engages at a conceptual level with the emerging “JT regulatory framework” for facilitating just-transition processes. It constructs a typology of the following labour law functions and mechanisms that can support just-transition processes at the workplace, sectoral, and local government level: consultation and collective bargaining; restructuring and retrenchments; training and skills development; unemployment insurance and income support; health and safety (see also *“Climate-proofing” labour law: Adapting to increased heat and extreme weather events*); and emergency and disaster management.

Drawing on stakeholder input, the report concludes by identifying three key building blocks for just transitions – integrated institutions, integrated framework instruments, and access to social protection – and considers ways in which these building blocks could be developed in the future.

Key words

Just transition; just energy transition; labour law; climate change law; decent work; coal-based energy sector; low-carbon economy; sustainable development; fundamental principles and rights at work; active labour market policies; labour and social plans; social protection; disaster management; skills development

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ACRONYMS AND ABBREVIATIONS

ALMP	Active labour market policy
BCEA	Basic Conditions of Employment Act, 1997
CALS	Centre for Applied Legal Studies
CBAM	Carbon Border Adjustment Mechanism
CCA	Climate Change Act, 2024
CCMA	Commission for Conciliation, Mediation and Arbitration
COIDA	Compensation for Occupational Injuries and Diseases Act, 1993
DFFE	Department of Forestry, Fisheries and the Environment
DITC	Department of Trade, Industry and Competition
DMA	Disaster Management Act, 2002
DEL	Department of Employment and Labour
DoL	Department of Labour
DPLG	Department of Provincial and Local Government
DPRU	Development Policy Research Unit
ECC	Employment Conditions Commission
EEA	Employment Equity Act, 1998
EPWP	Expanded Public Works Programme
ESA	Employment Services Act, 2014
ESIEID	Economic Sectors, Investment, Employment and Infrastructure Development Cluster
IDP	Integrated development plan
ILO	International Labour Organization
IPG	International Partners Group
IRFA	Intergovernmental Relations Framework Act, 2005

JET	Just Energy Transition
JET Imp. Plan	Just Energy Transition Implementation Plan 2023–2027
JET Inv. Plan	Just Energy Transition Investment Plan 2023–2027
JT	Just Transition
LRA	Labour Relations Act, 1995
MCSA	Minerals Council of South Africa
MHSA	Mine Health and Safety Act, 1996
MPRDA	Mineral and Petroleum Resources Development Act, 2002
MSA	Municipal Systems Act, 2000
NDC	Nationally determined contribution
NEDLAC	National Economic Development and Labour Council
NGO	Non-governmental organisation
NIPF	National Industrial Policy Framework
NMWA	National Minimum Wage Act, 2018
NPI	National Productivity Institute
NSF	National Skills Fund
NUM	National Union of Mineworkers
OHSA	Occupational Health and Safety Act, 1993
PCC	Presidential Climate Commission
PSCBC	Public Sector Coordinating Bargaining Council
RIS	Reimagined Industrial Strategy
SAREM	South African Renewable Energy Masterplan
SDA	Skills Development Act, 1998
SDLA	Skills Development Levies Act, 1999
SETA	Sector Education and Training Authority
SLP	Social and Labour Plan
TERS	Temporary Employer-Employee Relief Scheme
TLS	Training Lay-off Scheme
UIA	Unemployment Insurance Act, 2001
UICA	Unemployment Insurance Contributions Act, 2002
UIF	Unemployment Insurance Fund
UNFCCC	United Nations Framework Convention on Climate Change

1. INTRODUCTION

“A Just Transition aims to achieve a quality life for all South Africans, in the context of increasing the ability to adapt to the adverse impacts of climate, fostering climate resilience, and reaching net-zero greenhouse gas emissions by 2050, in line with best available science.

“A Just Transition contributes to the goals of decent work for all, social inclusion, and the eradication of poverty.

“A Just Transition puts people at the centre of decision making, especially those most impacted, the poor, women, people with disabilities, and the youth – empowering and equipping them for new opportunities of the future.

“A Just Transition builds the resilience of the economy and people through affordable, decentralised, diversely owned renewable energy systems; conservation of natural resources; equitable access of water resources; an environment that is not harmful to one’s health and well-being; and sustainable, equitable, inclusive land use for all, especially for the most vulnerable”

– Presidential Climate Commission¹

The NEDLAC labour law reform process is concerned with “the impact of the Future of Work, the changing nature of what constitutes a workplace, the increasing number of non-standard workers and **the need for a climate change just transition**”, noting that the Presidential Climate Commission (PCC) is a social partner Commission exploring a roadmap for a just transition, which may have implications for labour law.²

In the context of climate change, relevant labour law considerations for a just transition include employer obligations in respect of **consultation and training; retrenchment provisions and facilitation; unemployment insurance and income support (social protection);** and **skills development and employment services**, including active labour market policies, plans and programmes that support labour market transitions. In addition, climate change presents challenges for **occupational health and safety**, specifically in the context of **increased temperatures and disruptions to work** due to **extreme weather events**, which increase the risk of injuries and illnesses in the workplace. **Health and safety considerations** are important for **climate change adaptation** and are examined in further detail in our 2024 report entitled “*Climate-proofing” labour law: Adapting to increased heat and extreme weather events*.”³

In this report, we explore relevant aspects of **labour law** concerned with the employment relationship and a range of institutions, policies and instruments – including **sectoral collective bargaining, active labour market policies (ALMPs)**, and integrated regulation such as the **social plans** and **labour and social plans** – which aim at maintaining stability in the labour market and that are integral for achieving a just transition.

¹ PCC “[A Framework for a Just Transition in South Africa](#)” (2022) at 7.

² [NEDLAC request for proposals for labour law reform](#), 2022. “**Just transition**” is defined in the Climate Change Act 22 of 2024 as “a shift towards a low-carbon, climate-resilient economy and society and ecologically sustainable economies and societies which contribute toward the creation of decent work for all, social inclusion and the eradication of poverty”.

³ The “Climate-proofing labour law” report considers relevant statutory rights, duties and standards, particularly in the context of **working hours** and **occupational health and safety**, as well as **social protection** for illness due to extreme heat and short-term income protection when work is stopped. The report concludes with general and specific recommendations.

The report outlines the regulatory context relevant for consideration of the following questions:

- What are the best practices for managing retrenchment and job losses in the context of a just transition?
- How can the legislative framework support the labour market implications of a just transition?
- What are the challenges and opportunities for skills development and training in the context of the Just Transition?

The report grapples with the **complex regulatory issues** involved in planning and implementing the processes necessary for addressing the social justice challenges of a just transition (the most prominent of which relate to the environment and employment). These processes occur within the regulatory space of a range of laws and legal fields, and consequently fall under a variety of ministries and institutions in all spheres of government (national, provincial, and local) and at all levels of labour governance (workplace, sectoral, and national). In this regard, the report engages at a conceptual level with the emerging “**JT regulatory framework**” for facilitating just-transition processes.⁴

The regulatory framework for a just transition encompasses different disciplines and government ministries, thus requiring **cooperative governance as well as policy coordination and coherence**. As regards the areas of policy that are relevant, the “**action framework for a just transition**” of the International Labour Organization (ILO) provides guidance in identifying nine such key policy areas⁵ (see Table 1).

Table 1. Key policy areas for an integrated approach to sustainable development and a just transition

← Policy coherence and coordination ⁶ →								
Macro-economic & growth policies	Industrial ⁷ & sectoral policies	Enterprise policies	Skills development	Health & safety	Social protection	Active labour market policies	Rights (core labour standards)	Social dialogue & tripartism

See ILO [Guidelines for a just transition](#), 2015

⁴ However, our mapping of the **JT regulatory framework** is incomplete. We suggest a more comprehensive study and mapping of the framework, and an assessment of the mechanisms within it, including (a) the identification of key “levers” within the framework that can be used to optimise just transition processes, with guidance provided in this regard, and (b) the identification of gaps in the framework, with recommendations made to address them.

⁵ International Labour Organization (ILO) [Guidelines for a just transition towards environmentally sustainable economies and societies for all](#) Geneva (2015) at 7.

⁶ Key policy areas involve different government departments. For example, macro-economic considerations involve fiscal, tax or investment policies (affecting, for instance, the treasury, Department of Finance, and SARS) that target environmental and employment objectives; industrial and sectoral policies are concerned with impacted sectors (such as the DTIC Masterplans and bargaining councils); and enterprise policies are concerned with support for transitioning firms and workers, as well as small or MSME business development, including cooperatives and entrepreneurs. The policy areas that are primarily concerned with labour law and labour market regulation include skills development, health and safety, social protection, ALM policies, and core labour standards, while social dialogue and tripartism are cross-cutting.

⁷ See [Table 3. A note on industrial policy and Masterplans](#).

In South Africa, **cooperative governance for a just transition**⁸ is a primary objective of the **Climate Change Act, 2024 (CCA)**, which provides for **policy alignment**.⁹ The Act falls within the mandate of the **Minister responsible for environmental affairs**¹⁰ and establishes a statutory framework for the **PCC**, which has an *advisory* role. In terms of provincial and municipal institutions, the Act builds on the provisions of the **Intergovernmental Relations Framework Act (IRFA)** by mandating existing intergovernmental forums to serve (at provincial level) as Provincial Forums on Climate Change, and at district level, as Municipal Forums on Climate Change.

The report considers the broader JT regulatory framework and locates labour market regulation within this framework. Part 2 of the report is concerned with the labour market implications of a just transition, the significance of labour regulation for a just transition, and its role within the **PCC Framework** and the **Just Energy Transition Investment and Implementation Plans**.

Part 3 of the report provides an overview of a range of labour market regulatory “tools” relevant at various stages of a just transition. These are elaborated upon in parts 4 and 5, which set out the relevant provisions of labour law and ALMPs (part 4) and the context for integrated regulation, such as social and labour plans, training lay-off schemes, and statutory provisions for coordinated disaster management (part 5). Part 6 of the report considers the broader context of and institutions for a coordinated just transition and maps out the relevant spheres of government and levels of labour governance. Part 7 provides an overview of stakeholder engagement and direction from stakeholders, which we identify as the **building blocks for a just transition**: these are **integrated institutions**; **integrated framework instruments**; and **access to social protection**.

We focus on the transition from coal-based electricity generation (**coal-based energy**)¹¹ (see [2.4 below.](#)) in regard to potential job losses in the sector and the creation of new jobs in renewable energy and other sectors, treating this as a blueprint for managing job losses and transitions in other sectors.¹² However, we recognise that dynamics differ between sectors and that in each sector or area (region) impacted, the approach should be specific to the context. In this regard, factors to be considered include the number of jobs lost, the retrenched workers’ skill sets and work experience, and the potential for coordination between sectors for the transfer of workers into new jobs (possibly with a period of retraining in between).

⁸ Among the objects of the Act are “to provide for a coordinated and integrated response by the economy and society to climate change and its impacts in accordance with the principles of cooperative governance”, and “to ensure a just transition towards a low carbon economy and society considering national circumstances” (section 2(a) and (d)).

⁹ Section 7 provides for organs of state that exercise a power or perform a function affected by climate change to “review and if necessary review, amend, coordinate and harmonise their policies, laws, programmes, and decisions” to take into account the risks and vulnerabilities associated with climate change, and to give effect to the Act.

¹⁰ The Minister is empowered to develop regulations relating to the implementation of the Act (section 27).

¹¹ Transitioning the energy system away from coal is central to establishing a low-carbon economy, and hence a priority. As the JET Implementation Plan notes, “Electricity generation accounted for ... 45% [of the country’s greenhouse gas (GHG) emissions] in 2020. The majority of these emissions are generated by 15 coal-fired power plants owned by Eskom, most of which are non-compliant with air quality emissions standards, and nine of which will reach the end of their design lives between 2022 and 2034.” See [Just Energy Transition Implementation Plan 2023–2027](#) (hereafter JET Imp. Plan) at 70. While there will be nuances and specific institutions and policies applicable to other sectors and industries, similar patterns of coordination and processes for a just transition will apply in these sectors and industries.

¹² The notion of a “sector” is important in labour law as an organising principle for employer and workers’ associations as well as for collective bargaining structures. In the context of the CCA, see [Annexure B](#).

Relevant questions and considerations that should inform the coordination and planning of **sector-based jobs transition to a low-carbon economy**¹³ include the following:

- In which *sectors (industries)* and *workplaces* will *jobs be lost*, how many jobs will be lost, and what are the *timeframes* for the anticipated job losses?
- In which *sectors (industries)* and *workplaces* will *jobs be created*, how many job opportunities will there be, what are the *timeframes*, and (in some cases) what will the duration of these jobs be?¹⁴
- *Where* (in terms of provinces and cities or municipalities) will jobs be lost, and where will job opportunities arise (in terms of provinces and cities or municipalities)?
- *When* will jobs be lost (in general and by sector), and when will job opportunities be created (in general and by sector)?
- What *interventions* are required to *optimise the jobs transition* (transfer of retrenched into new jobs) in terms of income support, skills-development education and training, and relocation?
- What needs to be done, given the medium-term timeframe for the energy transition, for educating and training *new job entrants* for a renewable energy-based economy?
- Which institutions or functions need to be coordinated and integrated (and how) into planning for the jobs transition?

In the report, we foreground the transition in relation to jobs in coal mining and electricity generation, mainly in Mpumalanga, the employment opportunities that would be created in the renewable energy sector, and the role of labour law and labour market regulation in facilitating this transition. However, workers across other sectors will be facing similar transitions, and, with the above questions in mind, more needs to be known about anticipated jobs losses and gains, and skills development needs, to manage the transition effectively. While there will be variation between sectors, the **labour market regulatory strategies, principles, and best practices** that apply to the coal-based energy sector transition should inform and be adapted to the other industries or sectors where jobs are impacted.

2. LABOUR MARKET IMPLICATIONS OF A JUST TRANSITION

2.1 Climate change and a just transition in a fossil fuel economy

Climate change has far-reaching consequences for the environment and human life.¹⁵ The shift in climate patterns, and the necessary adaptation and mitigation strategies envisaged in an energy transition that

¹³ Note that this also requires engagement with the sector and sub-sector greenhouse gas emission targets determined in terms of the CCA framework (see discussion below).

¹⁴ For example, many jobs that are estimated to be created in the renewable energy sector will be in construction and installation, with a lifespan of about two years (compared to the much smaller number of jobs in operations and maintenance but with a life span of approximately 25 years).

¹⁵ On the impacts of climate change for workers and communities, see COSATU [Just transition: Blueprint for workers](#) (2022) at 15–19 (hereafter COSATU “Blueprint”).

prioritises *decarbonisation*,¹⁶ has significant implications for the economy and labour market.¹⁷ Transitioning to a low-carbon economy entails a fundamental shift from an **extractive economy** to a **regenerative economy**, which, to be *just*, must address South Africa’s poverty, inequality, and unemployment challenges. Broadly understood, a just transition is fundamentally transformative in “showing a way forward to an alternative society”.¹⁸

A just energy transition aligns with the idea in the 2030 Agenda for Sustainable Development of “transformative steps” towards the achievement of “inclusive and sustainable economic growth and decent work for all”.¹⁹ Conversely, an *unjust transition* might achieve decarbonisation and follow a pathway that prioritises the environment and green technologies, yet neglect to address the socio-economic impact of climate change on the material conditions of workers and communities and fail to dismantle features of the economic system that perpetuate extreme levels of inequality.²⁰ To achieve a just transition, *no one must be left behind*.

2.2 The nexus of labour law and a just transition

The CCA defines a “**just transition**” as “a shift towards a low-carbon, climate-resilient economy and society and ecologically sustainable economies and societies which contribute toward the *creation of decent work for all*, social inclusion and the eradication of poverty”. The PCC Framework for a Just Transition, 2022, describes the *just transition* concept as being underpinned by the three principles of **distributive justice**, **restorative justice**, and **procedural justice** (defined below); in this regard, the pillars of decent work²¹ and principles of labour law²² provide an important normative and legal framework contributing to the achievement of a just transition. *Decent work* ([SDG 8](#)) is integral to the sustainable development agenda, and the provisions and institutions of

¹⁶ “Decarbonisation” is explained in the “[JET – Investment Plan](#)” (JET-IP) at 146 as “[h]uman actions to reduce carbon dioxide emissions from human activities; in practice, involving a transition from energy and other societal systems which emit CO₂, to those which do not, over the medium to long term”.

¹⁷ The impact on coal-mining and established industries that support coal-based energy has broader implications for the economy and employment. See chapter 3 of the COSATU “Blueprint”. More generally, see Tomassetti P “Energy transition: A labour law retrospective” (2023) 52(1) *Industrial Law Journal* 34; Normann HE & Tellmann SM “Trade unions’ interpretation of a just transition in a fossil fuel economy” (2021) 40 *Environmental Innovation and Societal Transitions* 421. The latter distinguishes between transitions *within* fossil fuel industries and transitions *away* from fossil fuel. It also highlights the important role of the state in leading a transition; the need to develop a plan between employees, employers, and government to ensure justice for those affected; and the need for the development of industrial policy aligned with an *ecological modernisation* approach (429). A key consideration in this regard is the role of the Minister responsible for mineral resources and energy. In terms of the [Draft South African National Petroleum Company Bill, 2023](#), the Minister will be the sole shareholder of the National Petroleum Company (NPC), a public entity responsible for facilitating “energy infrastructure across the energy value chain”, including renewable energy, and managing petroleum and gas resources. (However, note the provisions of the [National State Enterprises Bill, 2024](#).)

¹⁸ COSATU “Blueprint” at 99.

¹⁹ UN General Assembly [Transforming our world: The 2030 Agenda for Sustainable Development](#) (A/RES/70/1, 21 October 2015).

²⁰ COSATU “Blueprint” at 18.

²¹ The ILO’s concept of “[decent work](#)”, which is integral (in SDG 8) to the 2030 Agenda for Sustainable Development, consists of the following four pillars: job creation, social protection, rights at work, and social dialogue.

²² Labour and social security law support the core labour standards and principles in the 1998 ILO Declaration on Fundamental Principles and Rights at Work (amended in 2022), which are (1) freedom of association and the effective recognition of the right to collective bargaining; (2) the elimination of all forms of forced or compulsory labour; (3) the effective abolition of child labour; and (4) the elimination of discrimination in respect of employment and occupation; and (5) a safe and healthy working environment.

labour and employment law support the underlying principles (distributive, restorative, and procedural justice) of the JT concept. The JT principles of justice²³ are set out in Table 2.

Table 2. The Just Transition principles of justice

<i>Distributive justice</i>	<i>Procedural justice</i>	<i>Restorative justice</i>
<p>“The risks and opportunities resulting from the transition must be distributed fairly, cognisant of gender, race, and class inequalities. The burden of transition should not be carried by impacted workers and communities and the costs of adjustment are to be borne by those historically responsible for the problem.”</p>	<p>“Those impacted by the transition must be empowered and supported in the transition, with them defining their own development and livelihoods, that is, through procedural fairness including transparency, collaboration, participation, design, and implementation.”</p>	<p>“Historical damages against individuals, communities, and the environment must be addressed, with a particular focus on redress: rectifying or ameliorating the situations of harmed or disenfranchised communities environmentally, socially, and economically.”</p>

The realms of justice that underlie the Just Transition also inhere in the functions, purpose, and mechanisms of labour law.²⁴ For example, section 1 of the Labour Relations Act (LRA) explains that the Act seeks “to advance economic development, social justice, labour peace and the democratisation of the workplace”. To this end, the primary objects of the LRA include establishing a framework, at both the workplace and sectoral level, for employers and worker organisations to bargain collectively on matters of mutual interest (s.1(c)(i)) and to formulate industrial policy (s.1(c)(ii)). Relevant aspects of the LRA framework are considered below.

While aspects of the labour law framework support decent work for workers in a transition, the function and scope of the JT concept is broader, encompassing aspects of both labour and environmental justice. Whereas labour justice and labour regulation are concerned with fundamental labour rights and principles at work, environmental justice is concerned more broadly with “the right to a safe and healthy environment for all people”, and as such is more “inclusive in that environmental concerns are not separate from housing, employment, health and education issues”.²⁵ The Just Transition is cross-cutting (multidisciplinary and intergovernmental) and requires coordination across different policy and legal disciplines. As such, the regulatory framework for the Just Transition encompasses elements from overlapping realms of regulation; indeed, its concerns extend beyond the narrower realm of labour regulation to include within its scope “transitioning to a greener economy and wrestling with climate change through adaptation and mitigation policies [which] involves challenges on a much greater temporal and spatial scale”.²⁶

Coordination across government departments and the inclusion of multiple stakeholders are critical for achieving a just transition: the PCC plays a central role in this regard. The inclusion of the Ministry of Labour and Employment and major worker and employer organisations is integral to achieving labour justice in a just

²³ See JET-IP “Glossary of Terms” at 146–148.

²⁴ Each employment law statute in South Africa reflects different aspects of the justice principles. For example, restorative and distributive justice feature strongly in the provisions of the Employment Equity Act (EEA), which are directed at redressing the impact of apartheid and its pronounced (racial and gender) disparities in the labour market.

²⁵ Leonard L “Bridging social and environmental risks: The potential for an emerging environmental justice framework in South Africa” (2018) 36(1) *Journal of Contemporary African Studies* 23 at 25.

²⁶ Doorey D “Just Transitions law: Putting labour law to work on climate change” (2017) 30(2) *Journal of Environmental Law and Practice* at 238.

transition; however, coordinated intergovernmental relations are equally important in the context of labour regulation to govern a world of work in transition.

2.3 The CCA, PCC, and JET Plans: Strategies & finance for a just transition

Achieving a just transition will depend on the availability of funding, and in this regard South Africa is dependent on financial support from the international community for the implementation of a just energy transition from a coal-extractive economy to a low-carbon one. International financial pledges hinge on the framework provisions of the **United Nations Framework Convention on Climate Change (UNFCCC)** and the **Paris Agreement**. The framework recognises that “the largest share of historical and current global emissions of greenhouse gases has originated in developed countries”, and places obligations on developed nations to “take the lead” in combatting climate change by assisting developing country parties in meeting the costs of adaptation, as well as to “promote, facilitate and finance ... the transfer of environmentally sound technologies to other Parties”.²⁷

South Africa’s commitments under the Paris Agreement to pursue **domestic measures²⁸ to meet its climate target** are set out in the [nationally determined contribution](#) (NDC), which commits to a mitigation range of between 398–510 MtCO₂e by 2025, and to between 350–420 MtCO₂e by 2030.²⁹ In regard to achieving the targets, Chapter 5 of the CCA³⁰ establishes the framework for greenhouse-gas-emission-reduction objectives, for the setting of sectoral emissions targets, and for the factors (including socio-economic impact) to be taken into account when determining such targets. The CCA requires the Minister to consult with the ministers responsible of the *sectors or sub-sectors* listed in terms of the provision (s 22). A “sector” is defined as “a collective term for a group of activities with similar characteristics which either emit greenhouse gases or are vulnerable to climate change”, and a “sub-sector”, for purposes of mitigation, as “a further subdivision of a group of greenhouse gas emitting activities as defined by the ... guidelines of the Intergovernmental Panel on Climate Change ...” (s 1). When enacted, the Act will be an essential legal tool for translating South Africa’s emission-reduction pledges in its NDC into action.³¹

As mentioned, the CCA provides the statutory framework for the **PCC**.³² The latter has an important *advisory* role in terms of ensuring South Africa’s “effective climate change response and the long-term Just Transition to a low-carbon and climate-resilient-economy and society” (s 11(1)).

²⁷ UNFCCC, articles 3 and 4.

²⁸ Paris Agreement, article 4(2).

²⁹ See Department of Forestry, Fisheries and the Environment [South Africa: First nationally determined contribution under the Paris Agreement](#) (2021).

³⁰ The CCA provides the legislative framework for South Africa’s commitments under the UNFCCC and Paris Agreement.

³¹ As mentioned, the CCA is concerned with “a coordinated and integrated response by the economy and society to climate change” (section 2), one which is to be guided by principles of equity and “a recognition that a robust and sustainable economy and a healthy society depends on the services that well-functioning ecosystems provide, and that enhancing the sustainability of the economic, social and ecological services is an integral component of an effective and efficient climate change response” (section 3(l)).

³² The PCC was established as a result of an agreement between social partners at NEDLAC in 2019, and its continuation as a statutory body is provided for in the CCA. Membership of the PCC includes “fair representation of government, organised labour, civil society, traditional leaders, the South African Local Government Association and business”. The body is required “to advise on the Republic’s climate change response, the mitigation of climate change impacts and adaptation to the effects of climate change towards the attainment of the Just Transition to a low-carbon and climate-resilient economy and society” (section 10 of the Act).

As regards strategy and financing, the [Just Energy Transition Investment Plan 2023–2027](#) (JET Inv. Plan) was unveiled by the Presidential Climate Finance Task Team in November 2022.³³ It outlines the financial requirement of **USD 98 billion over five years** to facilitate a continual and equitable energy transition, and delineates the optimal allocation of the **initial USD 8.5 billion** pledged by donor nations – the **International Partners Group (IPG)**³⁴ – to key investment areas in the priority sectors of electricity, new energy vehicles, and green hydrogen.³⁵ The electricity sector is a priority, as it is a significant contributor to greenhouse gas emissions in South Africa, with most of the emissions “produced by 15 coal-fired power plants owned and operated by Eskom and one small privately-owned coal plant which provides power to City Power – the Johannesburg city utility”.³⁶ The plan indicates that Eskom intends to close seven of its coal plants by the end of 2030, and an additional two by the end of 2035.³⁷

A more detailed [Just Energy Transition Implementation Plan 2023–2027](#) (JET Imp. Plan) was subsequently released in November 2023.³⁸ The JET Imp. Plan reiterates the finance requirements and the availability of IPG pledges, and assigns key institutions³⁹ with oversight of **six distinct portfolios: Electricity, Mpumalanga Just Transition, New Energy Vehicles, Green Hydrogen, Skills, and Municipalities**. The implementation plan is described as a “roadmap” for meeting South Africa’s decarbonisation commitments, and short- and medium-term objectives are identified across the focus areas. Additionally, the plan indicates that three further Portfolios were to be introduced in 2024: the [South African Renewable Energy Masterplan](#) (SAREM),⁴⁰ Energy Efficiency, and Road-to-Rail.⁴¹

³³ The Presidential Climate Finance Task Team was established by President Ramaphosa in February 2022 to mobilise financing for the just energy transition.

³⁴ The IPG consisted of the governments of France, Germany, the United Kingdom, the United States, and the European Union.

³⁵ See the [JET-IP Grants Register](#) (2024) for an overview of initiatives funded to date. The JET Project Management Unit is in the process of establishing an online register and funding platform. See Amato B “[Presidency’s JET unit launches funding platform to facilitate billions of rands and more into clean energy projects](#)” (28 February 2024) *IOL*.

³⁶ JET-Inv. Plan at 43.

³⁷ JET-Inv. Plan at 54.

³⁸ The JET Project Management Unit was established by the Presidency “to drive the JET IP implementation and prepare the JET Implementation Plan”. See [Just Energy Transition Implementation Plan 2023-2027](#).

³⁹ According to the JET-Imp Plan, “The **governance and institutional architecture** for JET implementation comprises an Inter-Ministerial Committee that reports to Cabinet, a JET Government Steering Committee that reports to the Inter-Ministerial Committee, and a JET PMU [Project Management Unit] in the Presidency that accounts to the Government Steering Committee and supports the institutions that are leading each Portfolio of programmes and projects. Each Portfolio is led by a co-ordinating council/forum/committee structure comprising stakeholders from government, business, labour, and civil society” (at 21). (Emphases added.) The Plan states that portfolios are supported by a secretariat, and that workstreams or programmes within a portfolio are led by institutional owners (including relevant stakeholders).

⁴⁰ Since 2019, the cutting-edge of industrial policy has been the rolling out of Masterplans for sectors. The lead government department is the [Department of Trade, Industry and Competition \(DTIC\)](#), but Masterplans (see [the DTIC Masterplan Guide](#)) are multi-stakeholder “social compacts” developed and implemented by all major stakeholders in the relevant sectors. In the context of renewable energy, the draft [South African Renewable Energy Masterplan](#) (SAREM), published in 2023, is geared towards “unlocking new industries and creating new jobs and skills in the rapidly transforming energy sector”. See JET-Imp. Plan at 30.

⁴¹ Transitioning from fossil-fuel energy, and transitioning auto-manufacturing and transport systems, are key priorities.

Table 3. A note on industrial policy and masterplans

Since 2007, the National Industrial Policy Framework (NIPF) is the overarching industrial policy for South Africa. It aims at increasing value addition per capita by encouraging the movement of firms into the tradable non-commodity sectors. As it was introduced 17 years ago, it is not surprising that there is no explicit mention of the energy transition in the NIPF; however, it does have components that are relevant to the current context: industrial financing; promotion of innovation and technology; skills and education for industrialisation; spatial industrial development; and support for small enterprises. The notion of the “green economy” subsequently appeared in the context of the New Growth Path (which has elements of macroeconomic policy and industrial policy). This reference to the “green economy” was picked up again in 2019 in the Reimagined Industrial Strategy (RIS), although the notion of an energy transition was not explicitly recognised in the RIS, and promotion of the “renewables/green economy” was consigned to a sector strategy, albeit designated a priority sector.

The RIS formally launched the concept of masterplans. These were a continuation of a strong sectoral orientation to industrial policy endorsed by the NIPF which saw the roll-out of sectoral Industrial Policy Action Plans for just over a decade. Masterplans have a multi-stakeholder approach and promote localisation along the value chain as the core of sector strategies. However, neither energy transition nor climate change adaptation is given any attention in the masterplans, so industrial policy continues to treat this issue by framing it within sectors (or value chains). Importantly, there is a Renewable Energy Masterplan; an Automobile Masterplan,⁴² which deals with electric vehicles; and a Mining and Beneficiation Masterplan,⁴³ which has relevance to the shift from coal to renewable energy and the expansion of mining for metals and minerals that support renewable energy technologies. Arguably, the NIPF and RIS need to be substantially revised or replaced by a more up-to-date framework that articulates a broad vision for industrial policy in the context of climate crisis.

2.4 Transitioning an energy system: Labour market implications for Mpumalanga

The JET Imp. Plan considers the labour market implications of an energy transition, the implications for electricity generation, transmission, and distribution, and the importance of coordinated planning. The plan explains that “Mpumalanga Province will be most affected by the low-carbon transition”.⁴⁴ The “**lessons from Komati**, the first power plant to be decommissioned” emphasise the need for coordination, planning and partnerships in order to “provide new opportunities and create additional jobs in the local area, region, and value chain, in partnership between Eskom and the local and provincial governments ... [and] giving life to the principles of procedural, restorative, and distributive justice”.⁴⁵ The PCC report concludes that

[i]t is essential to get the timing and sequencing right on decommissioning and repurposing projects; the process at Komati started too late. Communities and workers should be informed of the closure years ahead of time – as they are mapped out in the Integrated Resource Plan – and then Eskom and local and provincial governments must develop economic diversification plans for the surrounding district and region, with the involvement of workers and community members.⁴⁶

⁴² DTIC [Geared for Growth: South Africa’s Automotive Industry Master Plan to 2035 – A report of the South African Automotive Master Plan Project](#) (2018).

⁴³ This Masterplan is apparently in process; however, we were unable to obtain information about its contents.

⁴⁴ Jet-Imp. Plan at 94. The plan (at 85 – 86) sets out a roadmap for three coal power plants to be identified by Cabinet for decommissioning and repurposing facilitated by the Accelerated Coal Transition Investment Plan, with activities scheduled from 2023 to 2027.

⁴⁵ See Presidential Climate Commission [Early lessons and recommendations from Komati’s decommissioning and repurposing project](#) (2023) at 2 (hereafter PCC Report).

⁴⁶ PCC Report at 2.

The JET Imp. Plan prioritises investment linked to the transition from coal-based energy (electricity) and specifically so in the province of Mpumalanga, as coal mining and coal-fired power production are concentrated in the region.⁴⁷ In regard to the impact on employment in the coal mining and electrical utility industries, Borhat et al. estimate that there are “approximately 106 887 direct and indirect jobs linked to the coal value chain”.⁴⁸ The authors categorise the coal-industry workforce into three groups according to occupation-education level, as well as identifying a retirement cohort:

- 31,187 workers (29.28%): High-skilled or semi-skilled, with a post-secondary education qualification (*no transition challenge*).
- 66,928 workers (62.82%): Mostly semi-skilled, they may require a skills “top-up” intervention to facilitate job matching and employment in green jobs (*intermediate just transition challenge*).
- 8,416 workers (7.9%): Low-skill elementary workers who are unlikely to match into alternative employment opportunities and require income support (*just transition challenge*).
- From 10 139 workers (9.5%) up to 19 212 (18%): including workers “who may warrant early retirement packages” (*retirement cohort*).⁴⁹

Bhorat et al. quantify the jobs impacted and provide a useful categorisation of the workforce, and the types of policy interventions required to ensure a just transition. A further consideration is the **timeframes for job losses** in the sector. The Energy Research Centre indicates that a “Paris-compatible mitigation pathway will mean the phase-out of coal in the power and liquid fuels sectors by 2040”, which, by the Centre’s estimates, will result in approximately 60,000 jobs lost in coal mining by 2050 (though possibly as many as 70,000), leaving the sector with 25,000 to 35,000 workers.⁵⁰ By contrast, the World Bank suggests that almost all coal mining and petroleum jobs will be lost by 2050.⁵¹ Moreover, its study estimates total job losses more widely across 11 sectors that will be the most impacted by the energy transition. Using the SAGE model, the study calculates that about 302,000 jobs will be lost by 2050 (which increases to about 600,000 with a multiplier of 2), with most of these lost in the chemical, coal mining, and petroleum sectors; furthermore, the study estimates most of the jobs will be lost between 2030 and 2040 (with positive **job gains** beginning to accelerate only in the 2040s).⁵²

⁴⁷ JET-Inv. Plan at 94. Borhat H, Kupeta T, Martin L & Steenkamp F [Just Transition and the labour market in South Africa: Measuring individual and household coal economy dependence](#) Development Policy Research Unit (DPRU) Working Paper 202402, University of Cape Town (February 2024) at 2, indicate that “[o]f the 78 operating coal mines in South Africa, 65 (or 83%) are located in Mpumalanga, which accounts for 80 percent of national coal production”. In terms of spatial distribution, the mines are located within five municipalities (Emalahleni, Govan Mbeki, Msukaligwa, Steve Tshwete, and Victor Khanye), with a concentration in five mining companies (Seriti, Sasol, Exxaro, Thungela, and Glencore). Of Eskom’s 14 coal-fired power plants, 11 are located in Mpumalanga.

⁴⁸ Borhat et al. (2024) at 6.

⁴⁹ See Borhat et al. (2024) at 6. The fourth category in the list appears to cut across the first three categories.

⁵⁰ Burton J, Marquard A & McCall B [“Socio-economic considerations for a Paris Agreement-compatible coal transition in South Africa”](#) Energy Research Centre, University of Cape Town, South Africa (2019) at 9 fig. 5.

⁵¹ World Bank Group [South Africa: Country climate and development report](#) CCDR Series Washington, DC: World Bank (2022) at 35.

⁵² World Bank Group (2022) at 34–36 and figures 15 and 16. The World Bank also models where and how jobs will be created in the energy transition through to 2050. Its estimate is that about 815,000 jobs will be created (translating to 1.6 million jobs using a multiplier of 2). It is anticipated that most jobs will be created in the mining sector (i.e., non-coal sub-sectors, for minerals and metals needed for renewable energy technologies), the renewable energy sector and value chain, green manufacturing, construction and, to a lesser extent, utilities and services. As noted above, the bulk of these jobs are predicted to become available from 2040. See also the [National Business Initiative \(NBI\) “Climate pathways and a Just Transition for South Africa”](#) project and estimated net job gains.

On the other hand, the National Business Initiative data estimates a net gain of 1.4 million new jobs by 2040.⁵³

Job creation in the **renewable energy sector** is a consideration in the Draft Renewable Energy Masterplan (SAREM), which focuses on the renewable energy value chain and has a shorter timeframe. It projects that by 2030 the sector will create 36,500 new jobs, plus a further 3,600 jobs due to training or retraining for youth and retrenched coal workers (stating that 10% of renewable manufacturing activities will be located in coal mining areas).⁵⁴ Other new **job gains** are anticipated in the platinum mining sub-sector and the mining of other metal ores, as well as in the hydrogen sector and manufacture of fuel cells and electrolyzers. However, the PCC cautions against the impact of the European Union's trade restrictions in terms of the Carbon Border Adjustment Mechanisms (CBAMs), which could put jobs at risk in the automobile manufacturing, coal mining, steel manufacturing, chemical, cement, electricity generation, and aluminium sectors.⁵⁵

Predictions of a **net jobs gain but with a time-lag** also appear in a comprehensive modelling exercise by the IASS and CSIR in 2019,⁵⁶ which provides four scenarios and uses two timeframes for employment (as well as factoring in direct, indirect, and induced job creation) in the power sector in the course of the energy transition. The scenarios all confirm net employment gains, but these vary across scenarios, with one estimate (based on [IRP 2018](#)) being a net gain of 150,000 jobs in the power sector by 2050 (with 1.6 million jobs created in the economy as a whole).⁵⁷ While there will be a lag in new job creation, the modelling suggests that the gain in jobs will rise steadily over the period to 2050. What is particularly useful in the study is that new jobs in the renewable energy sector are disaggregated by duration, indicating that jobs in manufacturing, development, and construction and installation will be short-term (on average between 1.5 to three years), whereas jobs in operations and maintenance will be long-term (on average 25 years). Furthermore, new jobs are disaggregated by skill, with 70% of the jobs to be created in the renewable energy sector being high-skilled.⁵⁸

Detailed planning from a labour market perspective is required for a just transition. This should be informed by relevant and accurate data (for example, data based on skills audits as well as workplace and sector audits on jobs impacted) and should precede job losses. That is to say, "job transitions" need to be integrated in the implementation of a just transition; and the approach to implementation of the JET Inv. Plan must consider the need for the following:⁵⁹

- **Social participation**, which is required "to ensure that transition plans are co-created with the intended beneficiaries" and to ensure a broad-based distribution of the intended outcomes.
- **Social protection**, which must be designed for those affected by the transition so that there is adequate social protection for impacted workers and communities in the transition to new economic activities.

⁵³ This is in contrast to the more conservative (0.6 mil) estimate in the IRP pathway. See Olver C "[Conservation conversations: Navigating the climate transition](#)" (2024), slide 19, which would require appropriate interventions and systemic issues to be addressed.

⁵⁴ Department of Mineral Resources and Energy et al. South African Renewable Energy Masterplan: An industrialisation plan for the renewable energy value chain to 2030 Draft Masterplan (March 2022) at 3–4.

⁵⁵ It is not known if the impact of CBAMs is factored into the other modelling that has been done in the research we discuss here. Furthermore, a timeframe is not provided for the jobs at risk due to CBAMs, but one may presume that the impact would be felt before 2030. See PCC [Carbon border adjustment mechanisms and implications for South Africa](#) (2023).

⁵⁶ IASS & CSIR "[Future skills and job creation through renewable energy in South Africa](#)" (2019). The four scenarios are the CSIR Least Cost planning scenario, the DEA Rapid Decarbonisation scenario, the IRP 2016, and the IRPP Adjusted scenario 2018; the timeframes are to 2030 and to 2050. See also Olver (2024).

⁵⁷ IASS & CSIR (2019) at 3.

⁵⁸ IASS & CSIR (2019) at 15.

⁵⁹ JET-Inv. Plan at 100.

- **Capacitating municipalities** to provide the levels of resource support required for a just transition.⁶⁰
 - **Enabling infrastructure (road, rail, and water)** to augment the JET Inv. Plan objectives for Mpumalanga.
- **Skills development** that responds to the impact on lives and livelihoods in the shift away from coal.

The Jet Imp. Plan adopts the Theory of Change approach to national planning. Table 4 sets out the elements of the interim theory of change – developed with the Mpumalanga provincial government and drawing on the provincial plan for JET implementation in the province – with the envisaged wider impact being a “transition to a low-carbon economy and a just, climate-resilient society by mid-century”.⁶¹

Table 4. JET Imp. Plan theory of change (extract of outputs, outcomes and impact)

Outputs	Short-term outcomes (changes in system & capacity)	Medium-term outcomes (changes in behaviour & performance)	JET Inv. Plan impact
Key coordination structures established	Stakeholders involved and supporting activities	Sustainable agriculture and tourism thriving	Jobs created in the renewable energy sector, tourism, agriculture, etc.
Regular meetings and structures established for involving key stakeholders	Economic diversification planned and projects and programmes implemented	New industrial opportunities created, e.g. batteries, cables	Reliable, affordable electricity supply; greenhouse gas emissions reduced
Strategic training interventions with SETAs, TVETs, universities, and partners	Projects implemented to widen affordability of electricity	Skills enhanced to support economic opportunities and provision of social services	Sustainable livelihoods and strengthened support for SMMEs and communities at risk from climate change
	Advanced planning for decommissioning, repurposing and repowering	Economic and social interventions in at-risk communities, creating jobs and supporting livelihoods	
	Plans for financial viability of municipalities	Municipalities financially stable; infrastructure maintained	

Although JT planning takes place within the spheres of national, provincial, and local government, the implications for the labour market are significant. In this regard, labour market regulation, in the broad sense, provides numerous tools, mechanisms, and measures that support employment and decent work while

⁶⁰ An interesting development in this regard is the recent issuing of a [new standard by the South African Bureau of Standards](#) on Adaptation to climate change – Requirements on adaptation planning for local governments and communities. The standard “supports local government and communities in adapting to climate change based on vulnerability, impacts and risk assessments”. See Omarjee L “SA introduces standard to assist local govt to adapt to climate change” (20 September 2023) News24.

⁶¹ JET-Inv. Plan at 8. The theory of change for Mpumalanga JT is set out in figure 7 in the JET-Inv. Plan at 102–103.

navigating a transition in which new jobs will be created and others eliminated or transformed.⁶² Effective labour law and labour regulation mechanisms will be crucial for managing the transition successfully.

3. A RANGE OF REGULATORY INTERVENTIONS: FROM LABOUR LAW TO SOCIAL PLANS

3.1 Labour regulation and the phases of a just energy transition

A just transition is concerned with climate resilience and the impact that shifting to a low-carbon economy has on **workers, communities, and vulnerable groups**; it thus extends beyond the scope of labour law and labour market regulation. **Labour law** in itself has a narrower focus, namely regulating **basic conditions of employment, occupational health and safety**, and the rights, obligations, and employment relations between employers and employees in the workplace, with such regulation including the provision of enabling mechanisms and establishment of labour market institutions. The core functions of labour law are an aspect of the broader scope of labour market regulation, which encompasses a range of measures (beyond the employment relationship), including measures aimed at managing transitions that could threaten stability in the labour market. This includes **ALMPs**,⁶³ which comprise the broader framework for **skills development and employment services**. These policies include tools for reducing unemployment and assisting jobseekers. In times of crisis (or in the planning phases and implementation of a just transition), ALMP interventions can play a critical role in instruments such as **social (or social and labour) plans** and could involve extensive employment creation linked to the objectives and implementation of **industrial policies**.

The phases of a just transition will not necessarily be linear and may differ depending on the industry or sector and the dynamics concerned.⁶⁴ Our focus, in this report, is on the narrower labour market transitions involved in the shift from **coal-based energy**, in particular the impact on **employment in the coal mining and electrical utility industries** in the context of the phasing-out of coal-based power stations in Mpumalanga, noting that the transition to a low-carbon energy system will affect existing and future⁶⁵ employment, and broader labour market dynamics, in the region. Workers, whether directly or indirectly employed in the sector, will be impacted

Labour law functions and mechanisms supporting a just transition

See [Annexure C](#) for a typology of labour law functions and mechanisms that can support just-transition processes at the workplace, sectoral, and local government level, in relation to:

- consultation and collective bargaining;
- restructuring and retrenchments;
- training and skills development;
- unemployment insurance and income support;
- health and safety; and
- emergency and disaster management.

⁶² UNFCCC [Just transition of the workforce, and the creation of decent work and quality jobs](#) (2020) at 16.

⁶³ ALMPs, distinct from labour law, encompass a range of government interventions and initiatives aimed at improving employment outcomes by directly influencing the functioning of the labour market. ALMPs seek to address unemployment, labour market supply-and-demand mismatches, and barriers to employment by implementing measures such as job training, job search assistance, employment subsidies, and public employment services. They may be categorised as *passive* (focused on income replacement) or *active* (focused on skills development and job-matching). For more context on the scope of ALMPs in the context of the Just Transition, see ILO [“The role of active labour market policies for a just transition”](#) ILO Policy brief (2023).

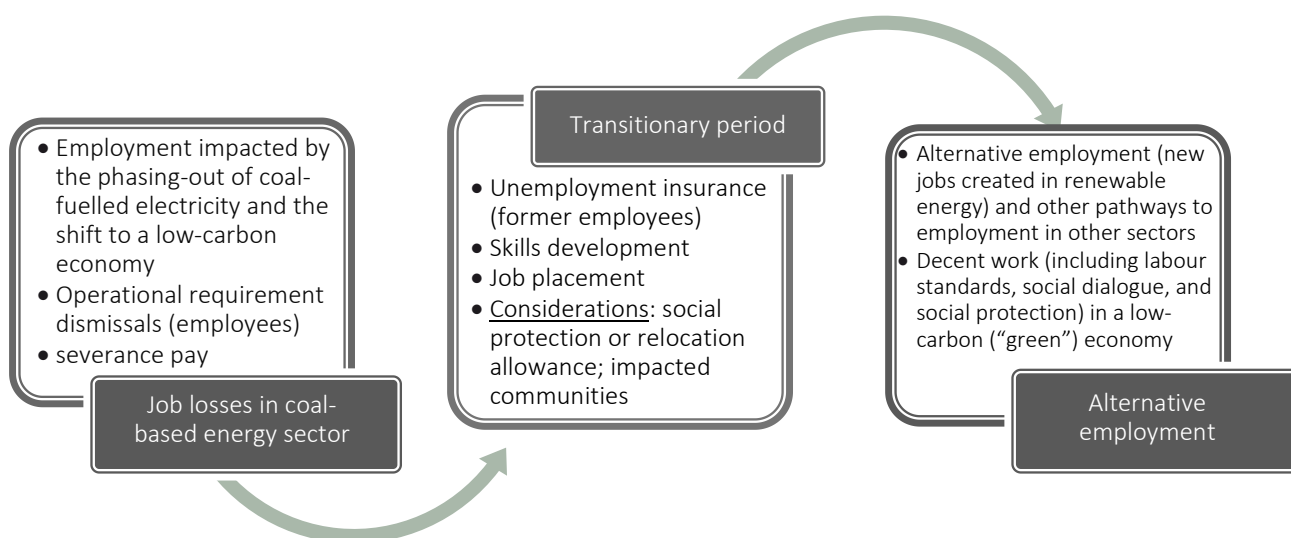
⁶⁴ Clearly, different sectors of the economy will be affected differently. In this regard, the JET Imp. Plan and Renewable Energy Masterplan provide additional context on the impact of the Just Transition on employment (i.e., on how many jobs are likely to be lost, transformed, or created in the narrowly-conceived transition process).

⁶⁵ See discussion above.

and could potentially experience job losses (large-scale retrenchments) and displacement,⁶⁶ while new opportunities may emerge in related or alternative sectors, including jobs elsewhere in the mining sector and in the renewable energy and green technology value chains.⁶⁷

In regard to its impact on the labour market, the process within a just transition involves three overlapping stages or phases (see Figure 1 below) during the shift from jobs in the coal-based energy sector to alternative employment,⁶⁸ including to new jobs in the renewable energy sector. The two book-end phases are, at the one end, the loss of jobs (and income) in the coal-based energy sector and, at the other, the employment of retrenched workers in equivalent jobs (meaning equivalent in terms of income, skills, status, and career paths), including employment in the renewable energy sector or in other jobs (which is likely to entail geographical relocation).⁶⁹ The middle – or interconnecting stage – is the transitional phase in which workers are assisted and prepared for renewable energy sector jobs (or other jobs). If such an energy transition is to be *just*, the duration of the transitional phase should be as short as possible; the impact on earnings and career paths should be minimised; the affected communities (that is, the communities which workers have left and those to which they go) must be supported; and the process must be negotiated with workers and unions.

Table 5. Overlapping phases of the labour market transition from coal-based energy



Labour law plays a direct role in the first phase of the transition, that is, when the loss of jobs is contemplated, and in the process of managing subsequent retrenchments, which would be regulated by the LRA, Basic Conditions of Employment Act, 1997 (BCEA), and Unemployment Insurance Act, 2001 (UIA). Labour law’s role diminishes as one moves from protecting existing jobs and past retrenchment to the transition phase, which is where ALMPs and their related plans and programmes become important. That being said, collective bargaining, which is enabled and promoted by the LRA, has the potential to extend the reach of labour law to

⁶⁶ The DPRU study estimates that approximately 106,887 jobs would be affected directly or indirectly. In this regard, the DPRU creates four categories based on retirement age and occupation-education level (see above).

⁶⁷ Coordinating a just transition will require extensive planning to map out the alternative pathways available to workers in impacted sectors. These pathways include, for example, reskilling and redeployment, options for (early) retirement, and employment in alternative sectors or in new jobs created in the renewable energy sector.

⁶⁸ Jobs in the coal sector could be extended for a period of time after coal mines are closed, for example by utilising mine rehabilitation funds and embarking on the restoration of land and landscapes.

⁶⁹ Noting that alternative pathways will be explored in the planning phase. As mentioned above, these pathways could include early retirement, relocation to other mining jobs or other sectors, and retraining and employment in renewable energy.

the later stages of a just transition, though this would depend on whether trade unions are well organised in, among others, the renewable energy sector.⁷⁰ The protective provisions and enabling mechanisms of labour regulation are complemented by active labour market regulation in the form of the Skills Development Act, 1998 (SDA) and the Employment Services Act, 2014 (ESA). The SDA⁷¹ will play a critical role in the transition, as it provides for training or retraining and, with the ESA, job placement to assist workers in transitioning from redundant fossil fuel-based energy jobs to renewable energy jobs.

3.2 In times of crisis: Government interventions that extend the reach of labour regulation

In the three decades since apartheid, programmes that complement and go beyond legislated labour rights have been introduced to manage large-scale job loss and provide pathways to re-employment. At the national level, these programmes include the **Social Plan (from 1998)**, the **Training Lay-off Scheme (TLS) (from 2009)**, which was subsequently amended and renamed as the **Temporary Employer-Employee Relief Scheme (TERS)** in 2018/19, and the **Covid-19 TERS** (which seems at some point to have been folded into the existing TERS). Relevant aspects of these are considered in Part D below. In Part D, we also examine, at a sectoral level, the Social and Labour Plans (SLPs) required in the mining and minerals sector (from 2002).

Labour legislation is the foundation for these programmes, but their reach is more expansive (drawing in mechanisms from other legislation and policies as necessary) and require differing levels of **cooperative governance**,⁷² as the programmes foreground services and activities of statutory agencies, departmental entities, and government officials across a range of departments to address large-scale job loss crises. These programmes will be important in achieving a just transition, whereas the narrower forms of labour regulation play a more direct role in the earlier stages of the transition, with the possibility of collective bargaining extending beyond the first phase and supplementing social plans.

The programmes mentioned above evolved over time and have incrementally influenced the development of labour law (for example, the inclusion of section 189A of the LRA in 2002), with aspects becoming embedded as dedicated services in particular institutions (such as the [Business Turnaround and Recovery](#) programme within [Productivity SA](#)).⁷³ These developments reflect successes and refinements in the programmes, although they may have inadvertently impacted on the coherence of the programmes as a holistic response supporting a labour market transition.⁷⁴ The latter is a consideration to be borne in mind in the design of regulatory instruments to support a just transition.

⁷⁰ A critical question that needs to be addressed by a just transition is union organisation of workers in the renewable energy sector. Union participation in the energy transition would be undermined if unions cannot organise and represent members in the renewable energy section at the same time as they are gradually losing members in the fossil-fuel-based energy sector.

⁷¹ Noting that the SDA is no longer strictly labour regulation under the Department of Employment and Labour (DEL). “Minister” in the SDA means the Minister of Higher Education and Training, however the definition envisages a role for the Minister of Labour, and the SDA takes account of the rights of trade unions to consult on workplace skills plans and skills development more broadly (see section 36(n) of the SDA.)

⁷² See section 41 of the Constitution for **principles of cooperative government and intergovernmental relations**.

⁷³ Productivity SA is established by section 31 of the Employment Services Act, 2014 to promote employment and productivity, and contribute to socio-economic development and improve South Africa’s competitiveness.

⁷⁴ In some instances, the links between legislation and the programmes could be elaborated / improved, for example the creation of Future Forums in the Social Plan framework may have benefitted from reference to workplace forums enabled by the LRA (although there may be sound reasons for this apparent substitution).

3.3 Conceptual overview of the role of labour regulation in the Just Transition

South Africa has for decades battled an intractable crisis of unemployment, one coupled with high levels of inequality and poverty. Shocks to the economy that cause job loss pose a serious threat to the economy and the country's stability, and, indeed, the urgent need for measures to address historical unemployment has been on the agenda since the Presidential Jobs Summit in 1998.

In addition, sector-specific challenges, such as the employment and socio-economic challenges faced in the **mining sector**,⁷⁵ have called for similar, more targeted, steps by government and interventions negotiated with social partners. This has resulted in instruments that supplement existing labour regulation, incorporating relevant provisions and building on these to develop a coherent programme framework that encompassed aspects of labour law and labour regulation including skills development and employment services.

These earlier programmes lay the foundation for the labour market aspects of the transition to a low-carbon economy and should be developed further, with adaptations targeting the specific challenges of an energy transition while recognising that a *just transition* has a wider policy scope. Ideally, the energy transition should reflect a certain symmetry in which jobs lost in the established fossil fuel-based energy sector (and other declining or climate-impacted sectors) are counter-balanced by access to alternative employment and the creation of new jobs in a growing renewable energy sector. Apart from the management of the labour market impact, if the transition is to be *just*, no one is to be "left behind" – the transition would thus need to include interventions to achieve the broader objectives of "a quality life for all ... decent work ... social inclusion, and the eradication of poverty".⁷⁶

Parts 4 and 5 below elaborate on the provisions of labour law and the instruments of labour market regulation that are applicable across the phases of the Just Transition.

4. LABOUR LAW AND REGULATION IN THE EARLY STAGES OF A JUST TRANSITION

Labour regulation, in its narrower sense, provides three mechanisms relevant for the initial and transitional phases of a just transition.

- The first are the **protective and compensatory mechanisms of labour law** (in the **LRA**, **BCEA**, and **UIA**) that impose **employer obligations** in relation to matters of mutual interest, including business restructuring and retrenchments.
- The second set of mechanisms are enabling ones and create avenues for **social dialogue and collective bargaining** in which employers and workers can fashion nuanced responses through consensus-seeking engagements (as per provisions of the **LRA** and **collective agreements**).
- The third are the **active labour market mechanisms** that facilitate **skills development** and **job placement** (namely, provisions in the **SDA** and **ESA**, as well as **Sector Education and Training Authority (SETA)** institutions).

⁷⁵ See the Social and Labour Plan Guidelines for the Mining and Production Industries. In the context of the energy transition and stabilising the mining sector amidst the various challenges, see Slater D "[NUM backs Mantashe on pro-coal stance](#)" (10 March 2023) *Mining Weekly*; NBI [Decarbonising the South African mining sector](#) (2023).

⁷⁶ The JET-IP definition of "just transition".

4.1 Labour Law's protective and compensatory mechanisms

Matters for consultation

4.1.1 Employers' obligation to consult

Before and at the time that retrenchments are contemplated, a range of labour law protections apply. In the world of work, employers are restricted from implementing **unilateral changes to terms and conditions**. Issues that affect employees and the employment relationship, including business restructuring, are a **matter of mutual interest** and meant to be resolved through **consultation** and **collective bargaining**. Examples of **matters of mutual interest**⁷⁷ and **matters for consultation**⁷⁸ in the workplace⁷⁹ which are relevant to a just transition include the matters for consultation indicated in Part C of the Collective Bargaining Code. These are as follows:

- Changes to job responsibilities and the introduction of new (green) technologies or automation in the workplace that might impact on employees' responsibilities, workflow or job security; and training and support related to new technologies or business restructuring.
- A shift in work location, or relocation of a workplace, or requirement for employees to work remotely.
- Changes to policies or procedures, and changes to working conditions, including in regard to:
 - health and safety;
 - opportunities for career advancement; and
 - skills development and training.

Part C of the Collective Bargaining Code promotes workplace democracy and dialogue and encourages consultative forums for the consideration of matters including “restructuring of the workplace, the introduction of new technology and new work methods, changes to the organisation of work, plant closures, mergers and transfers of ownership, retrenchments, exemptions, production development, disciplinary codes, workplace rules, changes to employer controlled social benefit schemes etc.”

In addition, the LRA lists specific **matters for consultation** (see below) in the context of a **workplace forum** (workplace forums are established in terms of Chapter V, LRA). In the absence of a statutory workplace forum, these matters could be included on the agenda of similar participatory decision-making structures that could be established by way of collective agreement (including a **bargaining council agreement**). Forums for consultation are important mechanisms for workplace democracy and dialogue in the workplace,⁸⁰ and may take shape based on statutory imperatives such as the consultation requirements in Chapter III of the Employment Equity Act, 1998 (EEA), which are elaborated upon in the EE Plan Code of Good Practice.⁸¹ The

⁷⁷ Although the scope of “matters of mutual interest” is broad, the term is generally understood in the context of collective bargaining. A “dispute of mutual interest” is defined in the Code of Good Practice: Collective Bargaining, Industrial Action and Picketing (2018) (hereafter, “Collective Bargaining Code”) as “a dispute concerning employment or labour relations that cannot be resolved through enforcing existing rights. It can be described as a dispute to create new rights. A dispute of mutual interest is the legitimate scope of a collective bargaining agreement and the matters which may legitimately form the subject of a protected strike or lockout” (para 17 (1)(b)).

⁷⁸ Collective Bargaining Code, Part C.

⁷⁹ Consultations in the context of retrenchments are discussed further below.

⁸⁰ The benefits of **workplace forums** compared to other participatory decision-making structures are that they are rooted in the LRA, which provides them with a framework of rights.

⁸¹ Code of Good Practice on the Preparation, Implementation and Monitoring of the Employment Equity Plan, 2017, issued by the Minister of Labour in terms of section 54(2) of the EEA.

latter envisages the establishment of a consultative forum⁸² or “using an existing forum to consult ... on employment equity matters”; alternatively, in the context of the SDA, a skills development forum may have been established for the purposes of skills development and the formulation of a workplace skills plan. In some firms, employment equity and skills development consultations take place in a combined forum.

Building on the existing statutory framework, a requirement for a forum (existing or new) for consultation on matters relating to the Just Transition, including skills development, could be considered (if an existing forum is in place, then the requirement would be to explicitly include JT considerations on the agenda).^{83,84} The table below indicates the matters included on the agenda of a workplace forum (as per LRA, s 84 **specific matters for consultation**).

Table 6. *Specific matters for consultation at a workplace forum*

EXTRACT FROM SECTION 84 OF THE LRA – SPECIFIC MATTERS FOR CONSULTATION
(a) restructuring the <i>workplace</i> , including the introduction of new technology and new work methods;
(b) changes in the organisation of work;
(c) partial or total plant closures;
(d) mergers and transfers of ownership in so far as they have an impact on the <i>employees</i> ;
(e) the <i>dismissal of employees</i> for reasons based on <i>operational requirements</i> ;
(f) exemptions from any <i>collective agreement</i> or any law;
(g) job grading;
(h) criteria for merit increases or the payment of discretionary bonuses
(i) education and training;
(j) product development plans; and
(k) export promotion.
(2) A <i>bargaining council</i> may confer on a <i>workplace forum</i> the right to be consulted about additional matters in <i>workplaces</i> that fall within the <i>registered scope</i> of the <i>bargaining council</i> .
(3) A representative <i>trade union</i> and an employer may conclude a <i>collective agreement</i> conferring on the <i>workplace forum</i> the right to be consulted about any additional matters in that <i>workplace</i> .
(4) Any other law may confer on a <i>workplace forum</i> the right to be consulted about any additional matters.
(5) Subject to any applicable occupational health and safety legislation, a representative <i>trade union</i> and an employer may agree—

⁸² See 6.1.2.5 of the EE Plan Code.

⁸³ In general, skills planning for restructuring or energy transition appears to have been inadequate. For example, although skills development is a focus area for Eskom (including in the context of the Just Transition: see [Sustainability Report, 2023](#)), it is not clear which of Eskom’s Consultative Forums is responsible for consulting and developing appropriate skills programmes, and it is evident from the decommissioning of the [Komati power station](#) that skills planning was inadequate to deliver on a just transition. See Patel O “Tour of Komati power station reveals dilemmas” (10 February 2024) *Mail & Guardian*. Eskom’s employee engagement programme and related training appear to emphasise executive skills, retaining “top talent”, and middle and senior management-level skills. While it is likely that future skills development planning will take account of the lessons from Komati (from Eskom’s perspective on Lessons Learnt at Komati, see [Sustainability Report, 2024](#)), this remains an area for further exploration, and consideration should be given to the need for developing an appropriate regulatory response.

⁸⁴ See also the model agreements in [Annexure A](#) for elements that may be relevant for a workplace-based forum.

- (a) that the employer must consult with the workplace forum with a view to initiating, developing, promoting, monitoring and reviewing measures to ensure health and safety at work;
- (b) that a meeting between the workplace forum and the employer constitutes a meeting of a health and safety committee required to be established in the workplace by that legislation; and
- (c) that one or more members of the workplace forum are health and safety representatives for the purposes of that legislation.⁸⁵

4.1.2 Retrenchments and income support

As soon as job losses (**retrenchments**) are contemplated, the **LRA** framework for **operational requirements dismissals**⁸⁶ comes into play. In the context of a just transition, dismissals for operational requirements (related to the “economic, technological, structural or similar needs of the employer”)⁸⁷ will occur as a result of downsizing (for example, as mining companies see a decrease in the demand for coal) or restructuring as part of transition to a renewable energy system (for example, given that coal-fuelled power plants are usually larger and more labour-intensive than renewable energy systems).

If retrenchments are contemplated, the LRA requires extensive engagement by employers with workers and trade unions at an early stage to reach consensus on appropriate measures to avoid or minimise retrenchments, and to delay dismissals and mitigate the impact on workers. Specifically, **section 189(2) of the LRA** requires a **meaningful joint consensus-seeking process and attempt to reach consensus on appropriate measures –**

- i) to avoid the dismissals;
- ii) to minimise the number of dismissals;
- iii) to change the timing of the dismissals; and
- iv) to mitigate the adverse effects of the dismissals.

In addition, consensus must be reached on **the method for selecting employees to be dismissed**, as well as on **severance pay** for dismissed employees.

Importantly, the concept of “**consultation**” differs from the collective bargaining idea of “**negotiations**”, and the orientation of consultations should be open-minded and directed at “**joint problem-solving**”. Consultation in the context of retrenchments envisages the adequate disclosure of information (LRA, s 189(3)), including –

- a) the reasons for the proposed dismissals;
- b) the alternatives that the employer considered before proposing the dismissals, and the reasons for rejecting each of those alternatives;
- c) the number of employees likely to be affected and the job categories in which they are employed;
- d) the proposed method for selecting which employees to dismiss;
- e) the time when, or the period during which, the dismissals are likely to take effect;
- f) the severance pay proposed;
- g) any assistance that the employer proposes to offer to the employees likely to be dismissed;

⁸⁵ Emphases added.

⁸⁶ See **LRA, sections 189 and 189A**; the **Code of Good Practice on Dismissal Based on Operational Requirements, 1999** (Retrenchment Dismissals Code); and the **Facilitation Regulations, 2003**.

⁸⁷ Retrenchment Dismissals Code, para 1.

- h) the possibility of the future re-employment of the employees who are dismissed;
- i) the number of employees employed by the employer; and
- j) the number of employees that the employer has dismissed for reasons based on its operational requirements in the preceding 12 months.

If the proposed dismissals make up a significant proportion of the workforce, the employer (or employees or their representatives) may apply (it is not compulsory) to the Commission for Conciliation, Mediation and Arbitration (CCMA) for the appointment of a **CCMA facilitator** to assist the parties in the consultations. The facilitation process was added in the 2002 amendment which introduced **section 189A**,⁸⁸ signalling recognition by the legislature of “the devastating systemic impact of large-scale retrenchments”⁸⁹ and the need for “sequestering off large-scale retrenchments for special treatment”.⁹⁰ Experienced facilitators must be satisfied that the proposed dismissals are related to an operational requirement, and will conduct up to four meetings (which may be increased) with a view to reaching agreement on the matters for consultation. Section 189A(5) and (6) makes provision for facilitation regulations, and the regulations that are in place could be revisited with a view to directing aspects of the facilitation in the context of a retrenchment linked to the energy transition.

The emphasis in the LRA on **joint problem-solving and exploring alternatives** provides scope for retrenchment consultations to be conceptualised in the broader sense of a just transition rather than via a narrow focus on “workplace”-based alternatives to dismissal, and in that sense the provisions are not inconsistent with the principles of a just transition; moreover, the **requirement for disclosure of specific information** related to the proposed dismissals ensures transparency and enables employees and trade unions to participate effectively in the consultation process. In addition, the provisions in **section 189A of the LRA** for the appointment of a **CCMA facilitator** where contemplated dismissals constitute a significant number of employees suggests a recognition of the complexities of retrenchment consultations. Facilitation can help streamline the process, improve communication, and potentially resolve disputes more effectively, all of which could contribute to a more equitable labour market transition.

However, the retrenchment law provisions in South Africa are not explicitly aligned with the principles and goals of a just transition. This could present challenges in transitioning to a low-carbon economy, particularly where there is resistance to the phasing-out of fossil-fuel activities.⁹¹ To garner support for a transition, “the state should take greater leadership; a plan for a transition needs to be developed between employers, employees,

Retrenchment processes

The retrenchment law provisions in South Africa are not explicitly aligned with the principles and goals of a just transition.

Among other interventions, **revision of the OR Code** could be considered, or alternatively the introduction of a new **Just Transition Code** (or new provisions in existing instruments) – and not only at the retrenchment stage (**the OR Code**), but also in the context of collective bargaining (**the CB Code**), with a view to introducing provisions that are comprehensive in terms of seeking to integrate the principles of a just transition within the scope of labour market regulation.

⁸⁸ On the use of facilitators in collective bargaining and negotiations more broadly, see paragraph 10 of the Collective Bargaining Code.

⁸⁹ Le Roux R *Retrenchment law in South Africa* Johannesburg: LexisNexis South Africa (2015) at 171 (citing Cameron J).

⁹⁰ Cameron J in *Steenkamp and other v Edcon Limited* [2016] ZACC 1, cited in Le Roux (2015) at 171–172.

⁹¹ The resistance typically arises out of concern for the social and economic well-being of workers, communities, and fossil-fuel industries. See, for example, Slater (2023); for analysis in the Norwegian context, see Normann & Tellmann (2021).

and the government; and justice for those affected by transition is important”.⁹² Among other interventions, **revision of the OR Code** could be considered, or alternatively the introduction of a new **Just Transition Code** (or new provisions in existing instruments) – and not only at the retrenchment stage (**the OR Code**), but also in the context of collective bargaining (**the CB Code**), with a view to introducing provisions that are comprehensive in terms of seeking to integrate the principles of a just transition within the scope of labour market regulation.⁹³

Matters to be considered in retrenchment consultations include **severance pay** to be provided to retrenched workers, as well as access to **income support** (and a **relocation allowance** if necessary) after retrenchment, to enable workers to transition to alternative employment, including new jobs in the renewable energy sector.

The minimum **severance pay**, that is, if no collective agreement regulates severance pay, or if the parties cannot reach agreement, will be determined by **section 41 of the BCEA**, which provides that the employer must pay the retrenched employee one week’s wages for each completed year of service. However, the section privileges **redeployment** or **re-employment** over redundancy (and severance pay): if the employer can find (acceptable) alternative employment or redeployment within its organisation,⁹⁴ or can arrange (acceptable) alternative employment at any other employer, it is not required to pay severance pay (in other words, severance pay is a second-best solution). If there is no acceptable alternative employment, the employer pays severance pay, and the employee becomes entitled to claim **unemployment benefits** in terms of the **UIA**.⁹⁵

UIA unemployment insurance provides **short-term income support**⁹⁶ to former employees (**contributors**) who have been retrenched, provided that the claimant is registered as a work-seeker with a labour centre and is willing available to work (**UIA, s 16**). If, for example, working time is reduced in any sector, then **partial unemployment insurance** may also become payable.⁹⁷ However unemployment compensation is limited, and arguments have been advanced for a more expansive approach, including extending coverage to those who leave their employment to pursue further education or training, to become self-employed, or for compelling

⁹² Normann & Tellman (2021) at 429.

⁹³ Provisions in a code could consider both the workplace as well as sectoral collective bargaining dynamics. Industrial’s [A trade union guide of practice for a just transition](#) (2022) provides guidance in this regard. In particular, its appendix sets out a short general framework and a specific collective agreement (from Australia’s Electrical Trades Union), as well as a detailed framework. These provide for shared commitment and a cooperative approach as regard risks to the business and job security, and set out minimum consultative provisions for agreement on, inter alia, a lengthy notice period (“of at least 5 years of future intention to close or substantially change technologies”) and the provision of “lead time [for] building replacement processes, and associated obligations, in relation to the impacts of energy transitions”. The framework makes provision for the **establishment of a transition working group; internal employment transitions; external employment transitions; support for impacted employees; and support for impacted communities**. See [Annexure A. Model agreements for a just transition](#).

⁹⁴ For example, mining companies such as [Seriti](#) and [Exxaro](#) are investing in renewable energy projects and “upskilling and training their employees, suppliers and communities”. Other schemes for job matching and upskilling could be considered where job losses are anticipated, such as in Eskom. For example, where retrenchments are contemplated, an employment scheme within the framework of the ESA could be considered to facilitate matching Eskom workers with jobs being created in the renewable energy sector or with employment opportunities in mining and other sectors.

⁹⁵ See **UIA, sections 15–18**.

⁹⁶ A contributor’s entitlement to benefits “accrues at a rate of one day’s benefit for every completed four days of employment as a contributor subject to a maximum accrual of 365 days benefit in the four-year period immediately preceding the day after the date of ending of the period of employment” (**s. 13(3)(a)**). Unemployment benefits must be paid to the contributor if the contributor has credits, regardless of any other benefits received within the four-year cycle. (**s. 13(3)(b)**).

⁹⁷ **UIA, section 12 (1B)**.

reasons relating to their families.⁹⁸ The extent to which workers have **access to income support** for a just transition will need to be expanded (including relocation expenses), and this forms part of the broader enquiry regarding the **design of social protection** raised in the JET Imp. Plan (in relation to impacted workers and communities).⁹⁹ These are matters within the scope of the **Unemployment Insurance Board**, which in terms of section 48 of the UIA is tasked, inter alia, with (a) advising the Minister on –

- (i) unemployment insurance policy;
 - (ii) policies arising out of the application of this Act;
 - (iii) policies for minimising unemployment; and
 - (iv) the creation of schemes to alleviate the effects of unemployment;
- (b) mak[ing] recommendations to the Minister on changes to legislation in so far as it impacts on policy on unemployment or policy on unemployment insurance.

In exercising its powers and duties, the Unemployment Insurance Board is required to take into account any directions issued by the Minister, as well as any guidelines determined by the Director-General.

Facilitating access to income support has also been an important consideration in the plans and programmes (discussed in Part D below) that provide an integrated approach in times of economic crisis and when retrenchments are anticipated. For example, the **1998 Social Plan** (discussed below) envisaged a “one-stop shop” combining measures to prevent retrenchments, with measures to manage retrenchments “humanely” if dismissals were unavoidable, including access to Unemployment Insurance Fund (UIF) benefits and the provision of a range of employment services (aspects of which were subsequently codified in the ESA in 2014).

4.2 Collective bargaining and related mechanisms

In addition to workplace collective bargaining and the provisions in the LRA for trade union involvement in the retrenchment process, the LRA’s framework for the promotion of collective bargaining includes provisions enabling sectoral collective bargaining.

At sector level, the LRA provides for a bargaining council (and see below regard statutory councils) to be established with the potential for undertaking more extensive interventions (that is, ones beyond the workplace) in regard to designing and implementing a just transition¹⁰⁰ and managing its impact on the labour market. The functions of a bargaining council¹⁰¹ are presented in the table below.

⁹⁸ Such as the arguments advanced in Dupper O, Olivier M & Govindjee A “Extending coverage of the unemployment insurance-system in South Africa” (2011) 36(1) *IMIESA* 438; Olivier M, Dupper O & Govindjee A “Redesigning the South African Unemployment Insurance Fund: Selected key policy and legal perspectives” (2011) 22(2) *Stellenbosch Law Review* 396; Olivier M & Govindjee A “A critique of the Unemployment Insurance Amendment Bill, 2015” (2015) 18(7) *Potchefstroom Electronic Law Journal* 2739; and Govindjee A “Social protection and vulnerable workers” in Westerveld M & Olivier M (eds) *Social security outside the realm of the employment contract* Cheltenham, UK: Edward Elgar Publishing (2019) 120.

⁹⁹ In addition to statutory social protection schemes, see [Annexure A. A detailed framework for a just transition](#).

¹⁰⁰ See **LRA, sections 23–32A**.

¹⁰¹ A bargaining council is established for a **sector and area**, and the applicant (one or more trade unions and one or more employers’ organisation) must be **sufficiently representative** in the sector and area. The registrar will forward the application, along with any objections and other relevant information, to NEDLAC to consider its appropriateness and demarcate the sector and area in respect of which the bargaining council should be registered (**LRA, s 29**).

Table 7. The functions of a bargaining council

(a)	to conclude collective agreements;
(b)	to enforce those collective agreements;
(c)	to prevent and resolve labour disputes;
(d)	to perform ... dispute resolution functions ...;
(e)	to establish and administer a fund to be used for resolving disputes;
(f)	<u>to promote and establish training and education schemes;</u>
(g)	<u>to establish and administer pension, provident, medical aid, sick pay, holiday, unemployment and training schemes or funds or any similar schemes or funds</u> for the benefit of one or more of the parties to the bargaining council or their members;
(h)	<u>to develop proposals for submission to NEDLAC or any other appropriate forum on policy and legislation that may affect the sector and area;</u>
(i)	to determine by collective agreement the matters which may not be an issue in dispute for the purposes of a strike or a lock-out at the workplace;
(j)	<u>to confer on workplace forums additional matters for consultation;</u>
(k)	<u>to provide industrial support services within the sector; and</u>
(l)	to extend the services and functions of the bargaining council to workers in the informal sector and home workers. ¹⁰²

Sectoral bargaining provides scope for trade unions to be involved in **job creation** in the **renewable energy sector**, as they could make demands at the workplace and sectoral levels that contribute to proactive and seamless management of the transition of jobs to the renewable energy sector. Moreover, at the **workplace level**, the LRA provides for the establishment of **workplace forums** for engagement between trade unions and employers' senior management (see discussion above).

The scale of the energy transition will require **intra- and inter-sectoral coordination**, with implementation and finer details worked out in **enterprise-level collective bargaining**. **Bargaining councils** could therefore have an important role to play. Currently there is no overarching bargaining council for the energy or electricity sector either in the coal-based energy sector (where trade unions are relatively well organised) or in the renewable energy sector (here, we would speculate that union organisation is low, with limited collective bargaining). However, in the coal-based energy sector, **Eskom's Central Bargaining Forum** provides, to some extent, a quasi-sectoral bargaining structure¹⁰³ in relation to Eskom's coal power stations. Furthermore, although the Central Bargaining Forum does not extend to the coal mining sector, centralised bargaining arrangements are in place between the coal mining employer members of the **Minerals Council of South Africa (MCSA)**¹⁰⁴ and the National Union of Mineworkers (NUM), UASA, and Solidarity. The MCSA Framework Agreement/Protocol to Govern the Coal Wage Negotiations¹⁰⁵ makes provision for a Central Bargaining Forum and for MCSA Wage Agreements to apply to member companies as well as all union members and other employees employed by these companies.

¹⁰² Emphases added.

¹⁰³ Besides management, the Eskom Central Bargaining Forum comprises the National Union of Mineworkers (NUM), National Union of Metalworkers of South Africa, and Solidarity.

¹⁰⁴ Formerly the Chamber of Mines of South Africa.

¹⁰⁵ However, note that the arrangements appear to have been abandoned. See CHRO South Africa "[Coal sector abandons centralised bargaining process for wage negotiations](#)" (13 September 2019).

While the MCSA facilitates bargaining for its members, it is not known how many non-member coal mines there are and how many are engaging in enterprise or mine-level collective bargaining with recognised unions.

The coal mining sector is well-organised, with high levels of union density, and many workers are likely to be covered by the centralised bargaining arrangement with the MCSA. Given the symbiotic relationship between the coal mining sector and the coal-based energy sector, consideration should be given as to whether it might be beneficial and feasible to establish an **energy sector bargaining council** to coordinate the transition from coal to the emerging renewable energy sector.¹⁰⁶ However, bargaining councils cannot be set up by ministerial fiat – in terms of the LRA they are established **voluntarily** and must meet representativity thresholds to be registered and to have collective agreements extended. It is therefore not a foregone conclusion that one would be established for the energy sector, as this depends on employers and unions in the sector and their levels of representativity. Arguably, the LRA's provisions for a **statutory council**, which set a lower representativity threshold and allow the DEL registrar to play an active role in facilitating the establishment of a statutory council, could be a more feasible option in the short-term and provide a stepping stone towards an energy sector bargaining council. However, the legislative framework for statutory councils has proved unwieldy and few statutory councils have been established, in addition to which the said framework provides statutory councils with only a very limited range of functions.¹⁰⁷

The absence of a bargaining council for the energy sector is to some extent mitigated by the presence of numerous **SETAs** situated in and around the energy sector. The key SETAs in the energy sector are the **Energy and Water SETA** and the **Mining Qualifications Authority** (which covers the coal mining sector), while other SETAs will also have an important role to play in a the broader Just Transition to a low-carbon economy (for example, the **Agri SETA**, **Construction SETA**, **Chemical Industry SETA**, and **Transport SETA**). It should be noted too that the **SDA** authorises the Minister of Higher Education and Training to define sectors for SETAs,¹⁰⁸ meaning that rearrangement of the current SETA demarcation is possible.

SETAs are important for facilitating and financing skills development and training for employees in the energy transition (see below), and the SETA governance structures include representation from social partners for the purposes of **sectoral coordination**.¹⁰⁹ In addition, the **National Skills Authority**¹¹⁰ includes trade union and community representatives nominated by NEDLAC. Notably, **Skills Development** is one of the six portfolios identified in the JET Imp. Plan,¹¹¹ and it is envisaged that the **JET Skills Portfolio** will form part of the **Master Skills Plan** currently being developed by the government.¹¹² One of the flagship interventions envisaged in the

¹⁰⁶ A bargaining council could also be a useful mechanism for engaging with issues such as a coordinated approach to mine rehabilitation and economic diversification.

¹⁰⁷ Although the parties to a statutory council may extend its functions by agreement.

¹⁰⁸ In terms of the SDA, **section 9 Establishment of SETA**, the Minister may (for a period notified in a gazetted notice) establish a SETA with a constitution for any national economic sector, having regard to any relevant [SIC Code](#).

¹⁰⁹ Each SETA is governed by an Accounting Authority (AA). The SDA, **section 11 Composition of Accounting Authority of SETA**, prescribes that at least six members of the AA must be nominated by organised labour. Furthermore, provision is made for representatives of the AA to be nominated by a **bargaining council** with jurisdiction in the sector, as well as by a **government department that has an interest in the relevant sector**.

¹¹⁰ SDA, **Chapter 2 National Skills Authority**.

¹¹¹ See <https://justenergytransition.co.za/> for details on the just energy transition and implementation of the JET-Inv. Plan.

¹¹² The JET Imp. Plan at 212 envisages that the **JET Skills Plan** will strengthen existing skills planning processes and “seeks eventually to be anchored into the mainstream skills system targets, such as occupations in high demand, and the National Skills Masterplan and human resource development (HRD) strategy”. The JET-Inv. Plan (at 226–227) envisages a **Three-Tier JET Skills Ecosystem** for the development of **skill formation systems** that support the **three core value chains** (new energy vehicles; green hydrogen; and renewable energy and transmission) and proposes additional interventions “to address the broader challenges around skills development” (see JET Imp. Plan at 226) including a JET

JET Imp. Plan is a three-tier JET skills ecosystem in which the DHET is a lead partner (with the Human Resource Development Council (HRDC)); here, coordination (and policy coherence) between the JET skills ecosystem and portfolio governance structures within the broader governance framework for skills development will be a priority.

4.3 ALMP mechanisms: An ecosystem for skills development and employment services

The third set of labour regulatory mechanisms, all enabled by the provisions of the **ESA** as well as the **SDA** and **Skills Development Levies Act, 1999 (SDLA)**, constitute the active labour market mechanisms in the post-1994 suite of labour statutes and have a critical role to play in the energy transition. The SDA and SDLA (together with the **SA Qualification Authority Act, 1995**) replaced the apartheid-era training system, creating a new institutional and financial framework for training and skills development. Although the system was introduced and initially administered by the Department of Labour (DoL), in 2009 the administration, power and functions of the SDA and SDLA were transferred to the newly created Department of Higher Education and Training,¹¹³ while **Productivity SA** retained responsibility to administer certain employment services functions within the DEL.¹¹⁴

The apex of the training dispensation is the **National Skills Authority**, which is tasked with advising the Minister on skills development policy and the formulation of the **National Skills Development Strategy**.¹¹⁵ The next level of the system is made up of more than 20 **SETAs**,¹¹⁶ which are tasked with developing **sectoral skills plans** within the framework of the **national skills development strategy**, implementing those plans, and establishing learnerships. However, the training itself is conducted by employers and training providers, in accordance with **workplace skills plans**, while SETAs administer the **skills development grants** paid to employers, training providers, and workers.

Skills development initiatives are financed primarily from payroll levies introduced by the **SDLA**. These levies are shared between the **National Skills Fund (NSF)**, which receives 20% of them, while **SETAs** receive 80%.¹¹⁷ In addition, the SDA makes provision for SETAs to be financed from “grants, donations and bequests made to it” and “money received from any other sources”.¹¹⁸ Similarly, the NSF (established by section 27 of the SDA) may be credited with “donations to the Fund, and money received from any other source”.¹¹⁹ **NSF funds** may be used “only for the projects identified in the national skills development strategy as national priorities or for such other projects related to the achievement of the purposes of the SDA as the Director-General determines”.¹²⁰

The skills development ecosystem is crucial for a just transition, and in this regard the JET–Imp. Plan identifies “challenges within the skills sector that must be overcome for South Africa to deliver on the JET”.¹²¹ These include systemic concerns about skill formation systems at a national level, long-term planning cycles for

Desk at the HRDC within the DHET. The plan also sets out a number of challenges in the skills sector (at 215–216) and explores their root causes (at 217).

¹¹³ Presidential Proclamation 56 of 2009.

¹¹⁴ See Du Toit D, Conradie B, Cohen T, Cooper C, et al. *Labour relations law: A comprehensive guide* 7th ed Johannesburg: LexisNexis South Africa (2023) at 39–44.

¹¹⁵ SDA, **section 5 Functions of National Skills Authority**, sets out this body’s functions.

¹¹⁶ Initially 25 SETAs were established, but over time some were amalgamated. SDA, **section 10 Functions of SETA**, sets out the functions that a SETA is required to perform.

¹¹⁷ SDA, **section 14 Finances of SETA**.

¹¹⁸ SDA, **section 14 (1)(c) and (f)**.

¹¹⁹ SDA, **section 27 National Skills Fund**, ss (2)(e) and (f).

¹²⁰ SDA, **section 28 Use of Money in Fund**.

¹²¹ JET Imp. Plan at 215.

education provision, the limitations of current skills anticipation systems, and a disconnect between training institutions and communities.¹²²

In the broader context of employment services, the **ESA**, enacted in 2014, supplements the **SDA**, and by amendment to the **SDA**, affirms its mandate over the **employment services** functions administered by the **DEL**. The **ESA** became the new legislative home for **Productivity SA**,¹²³ the functions of which are, inter alia, “to support initiatives aimed at preventing job loss”.¹²⁴ At the same time, the **ESA** expanded the existing employment service functions and established the **Employment Services Board**, which advises the Minister on, among other things, the development of criteria and guidelines for the implementation of the Act; regulations; and “any other matter related to employment services, on request of the Minister or NEDLAC”.¹²⁵ As with the National Skills Authority, NEDLAC nominates representatives from organised labour, organised business, and the community constituency to sit on the Employment Services Board. In addition, representatives of organised labour and organised business are nominated to the board of Productivity SA.

The objectives of the **ESA** (as per s 2) include improving the employment and re-employment prospects of employees facing retrenchment and facilitating access to education and training for work seekers, in particular vulnerable ones. This is to be achieved, inter alia, by coordinating the activities of public sector agencies whose activities impact on the provision of employment services, as well as by establishing schemes and other measures to promote employment¹²⁶ and assist employees in distressed companies to retain employment (*preamble*). **ESA** mechanisms include the registration of work seekers and employment opportunities in the Employment Services SA database. Other services include providing counselling to work seekers and matching them with, and placing them in, employment opportunities. The **ESA**’s activities are closely aligned with the **SDA** skills development ecosystem, and its employment services are funded by **UIF** and **Compensation Fund** allocations, as well as grants and donations made for this purpose to the Department.¹²⁷

The **SDA** skills system generates its own financing for training – the latter is coordinated by the **SETAs**, which are tasked with implementation of **sector skills plans**; in addition, targeted or strategic training is funded by the **NSF**. This system was central to the expanded schemes made available through the **Social Plan** as well as the **TLS** and, later, **TERS**, all of which establishes both a precedent and foundation for the role of the skills ecosystem in a comprehensive plan to achieve a just transition. Similarly, the services coordinated under the **ESA** are important for a just transition, and have already played a part in the **Social Plan** and subsequent programmes (which are considered next).

A recent development that has elements of **ALMPs** is the [Labour Activation Programme](#), financed by the **UIF**, which is intended to skill and up-skill unemployed youth and **UIF** beneficiaries for gaining access to the labour market.

5. INTEGRATED REGULATION FOR LABOUR MARKET TRANSITIONS

By 1998, the apartheid labour regulatory system had largely been overhauled and reformed. A suite of new statutes was introduced by the first democratically elected government: the 1995 **LRA**, the 1997 **BCEA**, the 1998 **EEA**, the 1998 **SDA**, the 1999 **SDLA**, and the 1996 **Mine Health and Safety Act (MHSA)**; two statutes – the **Occupational Health and Safety Act, 1993 (OHSA)** and **Compensation for Occupational Injuries and Diseases Act**,

¹²² JET Imp. Plan at 215–216.

¹²³ **ESA, Chapter 5, Productivity South Africa.**

¹²⁴ **ESA, section 32 Functions of Productivity SA.**

¹²⁵ **ESA, section 22 Functions of Board.**

¹²⁶ A “**work scheme**” is defined as “any programme aimed at assisting people to find or remain in employment or to set themselves up in self-employment”.

¹²⁷ **ESA, section 12**, and in the context of **Productivity SA, section 40.**

1993 (COIDA) – were introduced by the apartheid government in its last year. Within a few years the reform process was completed with the new **UIA (2001)** and **Unemployment Insurance Contributions Act, 2002 (UICA)**. But the new labour regulatory system was being buffeted by economic pressures, which exacerbated the unemployment crisis in the country. Much of the new system was rights-based and defensive, that is, protective of workers’ rights while in employment, although enabling provisions for collective bargaining gave scope for advancing workers’ interests. **Active labour market measures** included the new skills development system and the embryonic employment services emerging within the Department of Labour (as it then was). As described below, these have been supplemented from time to time when the need arises.

5.1 The Social Plan: A 1998 intervention in response to the unemployment crisis

In 1998, the first Presidential Jobs Summit took place in the face of a growing unemployment crisis. The Social Plan is a result of the summit. It was designed to proactively facilitate employment retention and re-employment as a way to address the unemployment crisis and ensure that retrenchments, where unavoidable, would be “managed humanely”, with workers supported in finding alternative employment. At this stage, the new skills dispensation was still being established. The Plan was concerned with large-scale job losses at either the workplace or sector level (with such losses defined as over 500 employees or 10% of an organisation’s workforce). The aim was to identify the risk of job losses early, devise turnaround strategies for firms, and put mitigating and redeployment measures in place.

The Social Plan should be understood against the backdrop of section 198 of the LRA, **operational requirements dismissals** (retrenchments), and the Code of Good Practice for Operational Requirements Dismissals (1999).¹²⁸ These regulatory instruments provide a rights-based foundation on which the Social Plan sought to build through the programmatic introduction of “early warning systems” and services to support responses that would avoid or mitigate job losses.

Consultation between employers and employees was at the core of the Social Plan process, which also allowed the two parties to receive technical and advisory support from the **National Productivity Institute (NPI)** (subsequently established under the ESA as Productivity SA), the **DoL**, and the **Department of Provincial and Local Government (DPLG)**. The Social Plan had three components or phases, each of which was linked to one of these supporting bodies: (1) *saving jobs*; (2) *managing retrenchments*; and (3) *creating jobs in local economies*.

The **NPI** was responsible for the first phase: *saving jobs*. It promoted the establishment of **Future Forums** comprising employers or managers and workers and their representatives. Future Forums would look ahead to identify threats and problems, as well as develop possible solutions. They would be supported by the NPI’s **Social Plan and Productivity Advisory Council**, its **Social Plan Technical Support Facility**, and the Social Plan Centres that would be set up. The Technical Support Facility was intended to a “one-stop-shop” that would prioritise “troubled sectors” and provide information and technical assistance to the parties and Future Forums to enable them to develop long-term strategies and implementation plans; Social Plan Centres would provide members of Future Forums with “an inventory of accredited technical experts who could analyse problems and identify solutions, relevant assistance programmes and other information or advisory services pertaining to the Social Plan”.¹²⁹

The second phase of the Social Plan fell under the **DoL** and provided **retrenchment counselling** (for example, on how best to use retrenchment packages) and **labour market information** (that is, opportunities for further training or retraining and employment). If the retrenchment involved more than 500 workers or 10% of the labour force of an enterprise, the employer or the Future Forum notified the DoL, which would make available a **Retrenchment Response Team** to provide support for the employer and workers. The latter liaised with the

¹²⁸ And later the Facilitation Regulations, introduced in 2003.

¹²⁹ Department of Labour Directorate of Employment Services “[The Social Plan Guidelines](#)” (1999) at 6.

Future Forum to determine the type of assistance or services needed; what financial resources were required and available; and the technical services needed. It also shared information about further sources of assistance (Social Plan Centres, Job Advice Centres or Labour Centres) that could provide information about job searching or self-employment.

The third phase went beyond the workplace and labour market to address the impact of large-scale retrenchments on communities; in other words, its target was the local and regional economy impacted on by large-scale job loss. This final phase of the Social Plan fell under the **DPLG**, but a further three government departments were linked by the Social Plan besides the DoL, namely the **Department of Public Works**, the **Department of Water Affairs**, and the **Department of Trade and Industry**, along with institutions such as the **Industrial Development Corporation** and **Ntsika**.¹³⁰ In this phase, local authorities affected by large-scale retrenchments could apply for **Social Plan Fund** assistance (“local authorities” were defined as including those where residents had lost jobs and those in labour-sending areas impacted on by large numbers of returning retrenchees).¹³¹

5.2 Social and Labour Plans: A sectoral variation to manage transitions in the mining sector

Subsequently, the **Mineral and Petroleum Resources Development Act (MPRDA)**¹³² was introduced in 2002 to transform the mining sector and ensure benefits for historically disadvantaged persons as well as the socio-economic development of areas in which mining-right holders operate. The Act introduces a **Social and Labour Plan (SLP)** as a prerequisite for the granting of mining or mining- and minerals-related production rights. The procedures, contents, reporting requirements, and the like for SLPs are detailed in the consolidated **Mineral and Petroleum Resources Development Regulations** (items 40 to 46C).¹³³ Administration of the MPRDA falls under the Department of Mineral Resources and Energy, with additional detail on and provisions for SLPs provided in the 2018 **Broad-Based Socio-Economic Empowerment Charter for the Mining and Minerals Industry** (hereafter, the **Mining Charter**).¹³⁴

The requirements of the **MPRDA** and the consolidated **Regulations** with respect to the contents of SLPs are more extensive than those of the Social Plan, probably as it has a narrower focus on the mining sector and the exact nature of the challenges facing the sector are better understood. In this respect, it is possibly a more

¹³⁰ The DPLG was renamed as the **Department of Cooperative Governance**, which together with the **Department of Traditional Affairs** report to the Cooperative Governance and Traditional Affairs (CoGTA) Minister. The Department is tasked with overseeing and managing the relationship between the national government and local and provincial governments. It therefore has a critical role to play in how governance of the energy transition is scaled up. Furthermore, as regards the broader climate crisis, and in particular climate-related natural disasters, the Department is responsible for disaster management. It is notable that the **Covid -19 TERS** (see further below) was introduced under the **Disaster Management Act** (57 of 2002).

¹³¹ Although no longer operative, this involved application to the **DPLG**, which at the time provided a R50,000 grant for the local authority to undertake a local economic regeneration study. The outcome of such a study would be a business plan for the local authority, with such plan to be submitted to the **Steering Committee of the Regeneration of Local Economies** programme for discussion of potential sources of funding to finance identified regeneration projects.

¹³² Act 28 of 2002.

¹³³ GNR. 527 dated 23 April 2004.

¹³⁴ The first **Broad-Based Socio-Economic Empowerment Charter for the Mining Industry** was introduced in 2004. It was replaced by a new **Charter for the Mining and Minerals Industry** in 2017, which was repealed and replaced in 2018 by the current 2018 Mining Charter. While the main thrust of the Mining Charter is that it is directed at transforming ownership in the sector, it also deals with the relationship of the mining and minerals sector with workers and their communities. It therefore complements and intersects with SLPs, with sections dealing with, inter alia, human resource development, employment equity, mine community development, and housing and living conditions.

useful reference point for the narrowly conceived energy transition. A detailed [Guideline for the Submission of a Social and Labour Plan](#) was issued by the Department of Mineral Resources in 2010. The Guideline recommends that an SLP should comprise a number of components (or sub-plans or programmes): *a human resources development programme* (which would include a detailed skills development plan, a career progression plan, and a mentorship plan); *an employment equity plan*; *provision for mine community development* (which includes host communities and labour-sending communities); *measures to address workers' housing and living conditions*; and *processes to manage job losses* in relation to mine downscaling and/or closure. It must also deal with the financial aspects of these programmes, plans, and processes.

The Guideline provides extensive detail on the contents of the SLP; notably, the section on the **management of downscaling and job loss** explicitly references the Social Plan, as well as section 189 of the LRA. It requires¹³⁵ that a plan or process for managing downscaling and regenerating local economies must be developed for implementation when needed, and that such plan be aligned with the **DoL's Social Plan Guidelines**, which includes the establishment of a **Future Forum**. The purpose thereof is to promote ongoing discussion between worker representatives and employers about the future of the mine; to look ahead to identify problems and possible solutions regarding productivity and employment; to develop turnaround and redeployment strategies to help reduce job losses and improve business sustainability; and to implement any other strategies agreed upon by the employer and worker parties.

Moreover, the SLP has to include mechanisms to ameliorate the socio-economic impact of retrenchment or closure of operations on individuals, regions, and economies. They must include, but are not limited to, comprehensive self-employment training programmes; comprehensive training and re-employment programmes; a comprehensive portable skills development plan; and an outline of projects for absorbing retrenched workers. These provisions appear to have been informed by the example of the Mine Development Agency, originally set up by the NUM (but now operated by a non-governmental organisation (NGO)) to assist retrenched mineworkers to find employment or pursue self-employment.

Research has found, however, that despite their comprehensiveness and targeted focus on the mining sector, there were shortcomings in the implementation of SLPs.¹³⁶ These included inadequate engagement with the reality of communities (in particular the absence of fieldwork to inform the SLP); inadequate information provided on consultation with communities; failure to address gender inequality; failure to make SLPs available to workers and communities; failure to plan (in particular, to conduct feasibility studies) for local economic development projects; lack of liaison and coordination between SLPs and municipalities' local integrated development plans and inadequate assignment of roles and responsibilities; and lack of clarity on how mining companies would facilitate housing for workers and communities (including the absence of coordination between government housing projects and the housing plans provided by mining companies).

For the purpose of planning and co-ordinating a regulatory instrument for a just transition, it is notable that most of the shortcomings are in the community sphere and relate to misalignment between what the mining company plans, what is being done by government and municipalities, and the nature of the community's involvement. In this regard, the Centre for Applied Legal Studies (CALS) argues on the basis of a study it conducted that "we need an urgent shift in how **SLPs** are designed and implemented to achieve social justice". As an output of the CALS study, an [SLP Mining Community Toolkit](#) has been provided to assist workers and communities in designing SLPs, engaging critically with existing SLPs, and monitoring compliance. The use of SLPs for a just transition is a possibility, and consideration should be given to how the SLP framework could be improved.

¹³⁵ In line with section 52 of the MPRDA and item 46(e) of the consolidated Regulations.

¹³⁶ Centre for Applied Legal Studies (CALS) [The Social and Labour Plans Series: Phase 3: Alternative models for mineral-based social benefit](#) (2018).

5.3 The Training Lay-off Scheme: The 2008 global economic crisis and 2018 amendments

A decade after the launch of the Social Plan, the county was hit by the 2008 global economic crisis, and in the “**Framework for South Africa’s response to the international economic crisis**” (2009), the government signalled the introduction of, inter alia, the **TLS**.¹³⁷ Amendments to the LRA in 2002 had introduced section 189A, which substantially fleshed out the **regulation of large-scale retrenchments**, including by providing for the CCMA to appoint a **facilitator** to assist the parties in such retrenchments. In effect, the introduction of section 189A codified key aspects of the Social Plan with respect to large-scale retrenchments. The Framework acknowledged the codification, and proposed that the TLS would pick up other parts of the Social Plan and orient it to what was envisaged to be a short-term crisis: in other words, it thus did not have a placement or re-employment component;¹³⁸ rather, the focus of the TLS was on training and re-training.

The training infrastructure for skills development had already been put in place in 1998/99 via the SDA and SDLA (see above). The TLS, drawing on financial support from the **National Jobs Fund** (with funds contributed from the NSF and the UIF), would provide for training lay-offs “for workers whose employers would ordinarily retrench them, and which can be introduced on terms that would keep them in employment during the economic downturn, but re-skill them as an investment for the future economic recovery”.¹³⁹

The TLS was aimed at employers and employees at risk due to the economic downturn. To participate in the TLS, employers had to be compliant with tax and labour laws (including bargaining council agreements) and contributing their skills development levy to the relevant SETA. The TLS’s key features were that (1) it was voluntary; (2) it entailed a temporary suspension of work for the sake of training, with the suspension funded for a maximum period of six months; (3) the employment contract continued (that is, workers remained in employment); (4) the type of training was flexible but linked to the skills needs of the employer; (5) a training allowance amounting to 75% of the worker’s wage would be paid to the worker over the training period; and (6) the employer would carry the cost of a basic package of social benefits for workers over the period.

A number of agencies and departments were involved in delivering under the TLS. The **CCMA** was responsible for facilitating, overseeing, and verifying all training lay-off consultations and agreements (and would ensure that all agreements complied with the rules of the TLS); **SETAs** were responsible for facilitating the provision of training, funding training costs, applying to the NSF for training allowances, and disbursing funds to employers; the **NSF** (with financial support from the UIF) was responsible for processing applications for training allowances (and training costs in certain cases); the **DoL** was responsible for oversight and monitoring of the TLS; the **Department of Trade and Industry** was responsible for ensuring that distressed sector support was coordinated with the TLS; and the **Economic Development Department** was responsible for assessing the impact of the TLS.¹⁴⁰

¹³⁷ Another proposal in the Framework is to develop incentives for investment in a programme aimed at creating large numbers of renewable-energy jobs, or what the Framework defines as “employment in industries and facilities that are designed to mitigate the effects of climate change” (at 11).

¹³⁸ The relationship of the TLS with the Social Plan is not entirely clear from the Framework. The latter document acknowledged the need to improve and scale up social plans, including at sector and workplace levels, so as to “ensure that job losses are avoided, workers are retrained, and communities are cushioned from the effects of the economic crisis” (at 18). The “social plan policy framework” was therefore the subject of a review by the social partners at NEDLAC. It is not known what the outcome of the review was.

¹³⁹ Presidential Economic Joint Working Group “[Framework for South Africa’s response to the international economic crisis](#)” (2009) at 17.

¹⁴⁰ Department of Labour “[A guide to the training layoff scheme](#)” (2009) at 3.

It is not known if the Economic Development Department conducted assessments of the impact of the TLS, but according to the Institute for Economic Justice, the TLS was initially implemented successfully until, after a few years, it was beset by problems that left it increasingly ineffective.¹⁴¹ It was reported that “government simply does not treat the TLS as an urgent and priority intervention”, and that the “relevant government committees do not meet regularly [and are] not quorate when they do meet”.¹⁴² As a result, it appears that delays occurred in processing TLS applications, and that by the time outcomes became known, it was generally too late.

The TLS was endorsed at the **2018 Jobs Summit**, albeit with some changes, including being renamed the [Temporary Employer/Employee Relief Scheme \(TERS\)](#) (not to be confused with the COVID-19 Temporary Employer/Employee Relief Scheme (**Covid-19 TERS**)). Under **TERS**, the duration of **training and income support was extended to 12 months**; support could be provided in situations where short-time was being worked (rather than just for fully-fledged lay-offs); and payment of the allowance would be directly from the UIF rather than via the relevant SETA and the employer. The applicant may ask the CCMA to facilitate a TERS Agreement, and a Single Adjudication Committee (comprising representatives of the CCMA, Productivity SA, Department of Trade, Industry and Competition (DITC), and UIF) recommends participation (through a Recommendation Ruling) in the TERS. As at early 2020, TERS ran in parallel with the Covid-19 TERS, but the two of them appear to have been merged at some point (see below).

As mentioned, the [Labour Activation Programme](#) (financed by the UIF) was recently initiated to provide Labour Activation Schemes,¹⁴³ including training lay-off schemes as an aspect of supporting companies in distress.

5.4 The Covid-19 TERS and KZN floods in 2022: Coordinated disaster management

The **Covid-19 TERS** programme responded to the threat to jobs and incomes and was coordinated in terms of the **Disaster Management Act, 2002 (DMA)**. The DMA is administered, as per **section 3**, by a minister designated by the President, which was the **Minister of Cooperative Governance and Traditional Affairs** – the latter may make **Regulations (s 27) authorising the issue of directions**. This was the case with Covid-19, and the **Minister of Employment and Labour** was authorised to issue directions and establish the Temporary Relief Scheme, which was administered by the UI Commissioner.

The Covid-TERS initially targeted employers and employees where businesses were required to close for a period of three months or less during the first Covid-19 lockdown, but was later restricted to **UIF contributors** only (that is, employers and employees). The Covid-TERS provided for payments to be made to workers in the form of benefits for reduced working hours. Employers in all sectors could apply for the benefits on behalf of their employees; in some sectors, **bargaining councils** fulfilled this function, subject to agreement on the modalities with the **UIF Commissioner**. In May 2021 the Minister reported that in the period from April 2020 until 31 March 2021, TERS made payment to 267,000 employers and 5.4 million individual employees to a total amount of R58.7 billion.¹⁴⁴

In the context of a coordinated response to a disaster or similar national threat, the role of the **Department of Cooperative Governance and Traditional Affairs (COGTA)** is important. COGTA’s mandate extends to aspects of

¹⁴¹ See also the recommendations in Rasool H, Rasool F & Mulholland M [Benchmarking study of models of training lay-off and retrenchment mitigation schemes](#) (2018).

¹⁴² Institute for Economic Justice “[Jobs Summit Policy Brief Series, Stream 4, Policy Brief 3: Training layoff scheme](#)” (August 2018) at 2.

¹⁴³ The pillars of the LAP strategy are partnerships with stakeholders; training the unemployed; supporting companies in distress; and enterprise development and business skills.

¹⁴⁴ Godfrey S & Jacobs M *Collective bargaining and the COVID-19 pandemic: South Africa* Research report submitted to the International Labour Organization (2021).

the Just Transition¹⁴⁵ and the consequences of extreme weather events.¹⁴⁶ The Declaration of a State of Disaster in terms of the **DMA** allows for the prioritisation of assistance and relief to the public. The response to the devastating floods, including funds made available in the aftermath of the floods in KwaZulu-Natal in April 2022¹⁴⁷ demonstrate the need for a multi-faceted approach to recovery and rebuilding in the event of a crisis¹⁴⁸ – and the same is true in the planning of a just transition in response to climate change.

However, although the provisions of the **DMA** were used successfully in the context of labour regulation during COVID-19,¹⁴⁹ the Declaration of a State of Disaster is required to trigger an intervention. In this regard, the use of similar enabling provisions in labour regulation could be more effective, particularly in the absence of a triggering disaster, for example to provide income (or other social) protection and benefits (under the **UIF**) in the context of a just transition or climate change scenario.¹⁵⁰ That being said, the **DMA** is interesting as a model for **an integrated and coordinated response** which provides a regulatory framework that coordinates across the three spheres of government; establishes institutions and representative forums; enables a range of regulatory mechanisms, including mechanisms to trigger funding, regulations and directives; and requires the design of strategies and plans. The DMA framework, and its use, could provide some context for the effective implementation and use of the CCA provisions.

See [Annexure C](#) for a typology of the various labour law mechanisms and ALMPs that could support climate change adaptation and mitigation and a just transition to a low-carbon economy, including processes at the workplace, sectoral, and local government level relating to consultation and collective bargaining; restructuring and retrenchments; training and skills development; unemployment insurance and income support; health and safety; and emergency and disaster management.

¹⁴⁵ The **COGTA** oversees elements of sustainable development; it is concerned with coordination of basic service delivery at local government level and the implementation of [The National Framework for Local Economic Development: Creating innovation-driven local economies](#) (2018–2028).

¹⁴⁶ The impact of severe weather events has resulted in the declaration of both provincial and national disasters on a number of occasions recently – for example, in April 2022, in response to heavy rains, flooding, strong winds, and landslides in KwaZulu-Natal, the Eastern Cape, and other provinces; in January 2023, as a result of the magnitude and severity of flooding incidents in Gauteng; in February 2023, as a result of flooding in the Eastern Cape, Mpumalanga, and other provinces; and in November 2023, as a result of flooding, storm surges, and gale-force winds in the Eastern and Western Cape.

¹⁴⁷ Thousands of houses were destroyed, thousands of people were displaced, and more than 400 people were killed. See Wits News [“The 2022 Durban floods were the most catastrophic yet recorded in KwaZulu-Natal”](#) (April 2023).

¹⁴⁸ See the [Auditor-General’s report](#) (2022). The floods affected [“at least 826 companies”](#); rebuilding was financed by donor funds, the allocation of budget from the National Treasury, and an SMME and Co-Ops Relief Fund, approved by the Provincial Treasury, in the amount of R67.5 million, repurposed from the Department of Economic Development and Tourism. The private sector also played an important role in the region’s economic recovery – Toyota South Africa experienced [“the most extensive damage to any production facility within Toyota globally”](#) – and coordination within the group enabled the plant to be reopened after three months.

¹⁴⁹ In addition to the DEL Directions regarding the Covid-TERS Benefits, further Directions issued in terms of the DMA during Covid-19 include the Minister of Transport’s Directive (December 2021) providing once-off *ex gratia* relief funds to the value of R1.135 billion to assist taxi operators (defined as a person holding a license to ferry passengers for reward) in the amount of R5,000 per qualifying operator.

¹⁵⁰ Which could involve a consideration of the role and powers of the Unemployment Insurance Board, the Minister and Director-General, and the UI Commissioner. [An example of the use of the UIF for providing temporary relief when a business is damaged or destroyed is the relief scheme set up by way of UI Regulations in GN 712 of 10 August 2021: Destroyed, Affected or Looted Workplaces: Temporary Financial Relief Scheme, 2021 \(Government Gazette No. 44978\) Regulations issued by the Minister in terms of section 54 \(b\) of the Unemployment Insurance Act, 2001.](#)

6. CONSIDERATIONS FOR A JUST TRANSITION

6.1 Mapping the regulatory framework for a just transition

The **regulatory framework for a just transition** is multi-faceted and extends beyond the realm of labour market regulation. Although our focus in this report is on labour market regulation (and optimising its tools, mechanisms, and institutions for a just transition), we have also tried to identify key elements of the evolving “JT regulatory framework”. However, we suggest that a comprehensive mapping of the evolving framework be undertaken in which key institutions, roles, powers and responsibilities are identified, and which reflects how the various realms of regulation interact within the broader framework. Mapping of the JT regulatory framework will be important to facilitate cooperative governance, policy alignment, and a coordinated and integrated response to climate change.

A better understanding of the regulatory framework will also facilitate dynamic interaction between relevant institutions and provide the context for strategic interventions at key “points of leverage”, as well as opportunities for the coordinated design of regulatory measures, tools, and mechanisms that promote and support an effective and just transition.¹⁵¹

More generally, considerations for a just transition include the need for expanded access to social assistance “to mitigate poverty and job losses during the transition”.¹⁵² In addition to labour market considerations (retrenchment law, unemployment income, skills development, employment services, and Expanded Public Works Programmes (EPWPs)), the health and well-being challenges of **communities must be addressed**, for example in the coal sector (and mining more generally). A low-carbon transition cannot be achieved in the absence of adequate social protection.

Furthermore, **local authorities**, particularly municipalities with resource and capacity constraints, need to be strengthened. As urbanisation increases and the transmission of energy is decentralised, the **role of local authorities will be critical for a just transition** and needs an enabling framework. In this regard, the **Municipal Systems Act, 2000 (MSA)** is likely to be pivotal for the inclusion of JT considerations in planning.¹⁵³ In terms of the **MSA**, municipal planning must be developmentally oriented and take place within a system of cooperative governance. Municipalities are required to participate in national and provincial development programmes (**s 24**), and each municipal council (within a prescribed period after the start of an elected term) must “adopt a single, inclusive and strategic plan for the development of the municipality” (**s 25**). The core components (**s 26**) of such an **integrated development plan (IDP)** must include the council’s

- **development priorities and objectives** for its elected term, including **its local economic development aims**;
- **development strategies**, which must be **aligned with national or provincial sector plans** and planning requirements in terms of binding legislation;
- **spatial development framework**, including guidelines for a land use management system;
- operational strategies; and
- applicable disaster management plans.

¹⁵¹ On the idea of points of leverage and institutional dynamism within regulatory frameworks, see McCann D & Fudge J “[A strategic approach to regulating unacceptable forms of work](#)” (2019) 46(2) *Journal of Law and Society* 1.

¹⁵² Annecke W & Wolpe P “[What role for social policies in the framework of the Just Transition in South Africa?](#)” (2022) 230 *AFD Research Papers* 1.

¹⁵³ **Municipal Systems Act 32 of 2000.**

In addition, district municipalities, in consultation with local municipalities, are required to adopt a **framework for integrated development planning** in the area as a whole. The integrated development planning processes required by the MSA present an opportunity for **embedding the JT processes** towards a low-carbon economy **within communities** while prioritising skills development, local economic development, and job creation to ensure that the transition benefits workers and communities at the local level. (See Table 8 on the meaning of “community”.)

Table 8. The meaning of “community”

In relation to a municipality, the MSA defines “**local community**” or “**community**” to mean –

that body of persons comprising –

the residents of the municipality;

the ratepayers of the municipality;

any civic organisations and non-governmental, private sector or labour organisations which are involved in local affairs within the municipality; and

visitors or other people residing outside the municipality who, because of their presence in the municipality, make use of services or facilities provided by the municipality,

and include[ing], more specifically, the poor and other disadvantages sections or such body of persons [emphases added].

The provisions of the MSA are augmented by the CCA, which includes institutions such as the Municipal Forums of Climate Change (s 9) and whose provisions in Chapter 3 require a climate change response from municipalities after the publication of the National Adaptation Strategy. The climate change response entails a **needs and response assessment** and an “**implementation plan** as a component of ... municipal planning instruments, policies and programmes” (s 17). **The needs and response assessment must “identify and spatially map ... risks, vulnerabilities, areas, ecosystems and communities ... that are vulnerable to the impacts of climate change”** (s 17(2)(c)).

Coordination and alignment between the three spheres of government is important, as governance and management of the transition will involve multiple ministries, government bodies, statutory agencies, stakeholder organisations, and companies. As such, a significant challenge for governance and management is **coordination** across and between the many departments and other key constituents, noting that such coordination is envisaged in the structures established by the CCA.

At a practical level, the **governance and institutional architecture** for the JET implementation¹⁵⁴ would also be important. This includes an Inter-Ministerial Committee which reports to Cabinet, as well as a coordinating council (or forum or committee) for each portfolio (that is, for electricity and for Mpumalanga) that comprises stakeholders from government, business, labour, and civil society.

A key challenge is the **alignment of the labour regulatory architecture with the broader architecture of government**,¹⁵⁵ which should take account of the three levels of labour governance (national, sectoral, and workplace) and the three spheres of government (national, provincial, and local), as depicted in Table 12 below.

¹⁵⁴ See n 40.

¹⁵⁵ Note the growing recognition of the role of public authorities in realising core labour standards (see ILO Recommendation 204, Transition from the Informal to the Formal Economy, 2015, and ILO Convention 190, Violence and Harassment, 2019). This may require reflection on [NEDLAC’s mandate and the scope of work within its chambers](#)

6.2 Optimising labour market regulation for a just transition

The potential for optimising integrated regulation for labour market transitions through mechanisms such as the SLPs is explored in part 7. In the discussion below, [the typology of labour law functions and mechanisms supporting a JT](#) serves as a framework to consider the use and possible development of various labour law mechanisms in the context of climate change and the Just Transition to ensure that the functions and mechanisms of labour market regulation are optimised at the levels of workplace, sector, and local authorities.

- **Consultation and collective bargaining**

Considerations for workplace, sector and local authorities

Guidelines, a code of good practice, and/or collective agreements could be developed to promote **workplace consultation and bargaining** (see [Annexure A. Model Agreements for a just transition](#)), including the possibility of workplace forums or “futures forums”. At the **sector** level, bargaining could be facilitated by interventions aimed at existing or new coordinated bargaining councils (for example, for the energy sector and other impacted sectors); at the **local authority** level, mechanisms for consultation for communities or self-employed workers (including the [SABS standards](#)) should be considered. Regulatory instruments could be introduced in terms of the CCA or, in the context of labour regulation, the LRA.

Moreover, the role of the JET-IP Portfolio co-ordinating council/forum/committee structures¹⁵⁶ should be clarified.

- **Restructuring and retrenchments**

Considerations for workplace and sector level

Similar to the above, guidelines, a code of good practice (new or revised), regulations (such as the Facilitation regulations), and collective agreements could orientate retrenchment processes towards a just transition pathway. Mechanisms for additional (income and relocation) support (within the UIF or bargaining council regulatory framework) for retrenched workers and affected communities should be considered, and local authorities should be capacitated to achieve a just transition.

- **Skills development, training and reskilling**

Considerations for workplace, sector and local authorities

At the sectoral planning level, a mapping and review of the SETA landscape may be useful for ascertaining if new formations are required; in addition, SETA (SDA) reporting (as well as EEA reporting) may be a useful source of data for skills development planning.

(2020), specifically as regards the following: the Labour Market Chamber (that is, “all matters pertaining to the world of work and the associated institutions of delivery”); the Development Chamber (that is, “all matters pertaining to development, both urban and rural, implementation strategies, financing of development programmes, [and] campaigns to mobilise the nation behind government associated institutions of delivery”); and the Trade and Industry Chamber (that is, “all matters pertaining to the economic and social dimensions of trade, industrial, mining, agricultural and services policies and the associated institutions of delivery”).

¹⁵⁶ That is, each “portfolio” has its own governance structures and includes tripartite representation. These circumstances could provide the starting-point for informal discussion with sectoral social partners and others with a view to establishing formal industry or sector bargaining councils.

The possibility of linking SETAs to bargaining councils or similar forums should also be considered.

The SDA provides for regulations requiring employers to submit **workplace skills plans** to SETAs (which SETAs are required to approve),¹⁵⁷ as well as for the rights of trade unions or other employee representatives to consult with their employer on developing, implementing, and reporting on workplace skills plans.¹⁵⁸ The objectives of SETAs are extensive in relation to employers and workers (including work-seekers and self-employed workers) and includes coordination with other agencies on matters related to skills development. In this regard, a review of the SETA regulations for the Constitution of SETAs (2012, as amended) as well as the Grant Regulations regarding monies received by a SETA and related matters (2012, as amended) with a view to optimising the SDA framework to ensure adequate skills audits are conducted and reported, and to require workplace consultation in terms of skills planning, noting that a consultative forum is required in terms of the EEA (6.1.2.5 of the EE Plan Code)¹⁵⁹ which is comparable in terms of its objectives and the need for planning at a workplace level. This is a potential gap in the SDA framework, and in this regard a regulatory instrument could be introduced to provide for a coordinated and coherent approach to sector skills planning processes in the context of the Just Transition. This instrument could be an LRA Code of Good Practice; or alternatively SDA s 36 Regulations;¹⁶⁰ or even in terms of the CCA s 27 Regulations in respect of sectors and sub-sectors.

A regulatory instrument could be introduced that requires periodic reporting by firms in designated sectors. The data reported on could relate to, among other things, workplace skills inventories, anticipated employment changes (jobs lost, transformed, substituted or created in the context of climate change management), employer skills programmes to address skills gaps, redeployment programmes, and early retirement programmes.

- **Unemployment insurance and income support**

Considerations for workplace, sector and local authorities

Improvements to the current framework for income support (unemployment insurance)¹⁶¹ should be considered, including provision for relocation allowances. This may require legislative amendments and/or an enabling instrument issued by the delegated authority in terms of the UIA.

Options in this regard include UIA Regulations in terms of section 54 of the UIA read with section 5(d), which provides for “financing of the retention and re-entry of contributors into the labour market and any other scheme aimed at vulnerable workers”. Ongoing engagement is required on developments in relation to:

- UIA and TERS (noting the [Labour Activation Programme](#) developments);
- improved income support and funding mechanisms for relocation; and
- Department of Social Development grants.

- **A safe and healthy working environment**

¹⁵⁷ SDA, section 10. Mandatory grants are paid to employers who develop and implement workplace skills plans.

¹⁵⁸ SDA, section 36.

¹⁵⁹ Skills development is integral to employment equity, and as such reflects the integration of employment equity in human resources policies and practices; it is also a criteria (via the Skills Development scorecard) within the framework for black economic empowerment.

¹⁶⁰ SDA, section 30B also makes provision for a national standard of good practice in skills development.

¹⁶¹ See Rasool, Rasool & Mulholland (2018) who, in regard to South Africa’s TLS, recommend shifting from **unemployment insurance** to an **employment insurance scheme**, as the latter has a greater focus than the former on getting workers back to employment. The authors benchmark the approaches of Malaysia, South Korea, and Sweden.

Considerations for workplace, sector and local authorities

In this regard, see stakeholder engagement and recommendations in Godfrey S & Collier D “*Climate-proofing” labour law: Adapting to increased heat and extreme weather events* NEDLAC Report (2024).

Consideration should also be given to the **local authority and community** context, as well as to the development of appropriate measures for managing safe and healthy working environments in the absence of an employing entity (for example, street vendors and waste reclaimers).

- **Emergency and disaster management**

The DMA provisions, guidelines and regulations are mechanisms in disaster circumstances that could, for example, clarify income protection or relocation allowances. Nevertheless, more “routine” labour market regulatory mechanisms may be more effective in planning for a just transition, including in responding to emergencies and disasters – for example, the UIF or temporary relief when a business is damaged or destroyed (for instance, the **Temporary Financial Relief Scheme, 2021 Regulations** issued by the Minister in terms of section 54(b) of the Unemployment Insurance Act, 2001).

Further considerations are:

- the development of UIF temporary relief schemes;
- developing policy and measures or schemes at sectoral level; and
- just transition linkages with the DMA framework and municipal IDPs.

Government (at all three levels) already addresses employment creation and community development in legislation and through numerous plans and programmes. Examples include the Employment Tax Incentive Act; the EPWP; the Presidential Employment Stimulus; the entrepreneurship and cooperatives development programmes of the Department of Small Business Development; investment promotion by the DTIC as well as provincial investment promotion agencies; and the sectoral masterplans developed under the aegis of the DTIC and other government departments (including the Renewable Energy Masterplan, the Integrated Resource Plan, and provincial and municipal development planning).¹⁶²

Many NGOs and civil society organisations are active in this space. The challenge is to coordinate and optimise the services, and ensure their accessibility to workers and communities impacted on by the transition.

7. STAKEHOLDER ENGAGEMENT AND RECOMMENDATIONS ON JT BUILDING BLOCKS

7.1 Direction from NEDLAC workshop

In August 2024, a NEDLAC workshop, attended by social partners and key stakeholders including the PCC, was convened to consider a draft of the report with a view to informing the direction of labour law and regulatory developments in the Labour Market Chamber. Additional considerations were provided by Haroon Bhorat, who presented the findings of his team’s study of the coal sector.¹⁶³ The study categorised affected workers into four groups: the no just transition challenge; the intermediate just transition challenge; the just transition challenge; and the retirement cohort.¹⁶⁴ Recognising that each group would have different needs, the study

¹⁶² Organised labour has representation to differing degrees in many bodies and forums, as well a role in the design and implementation of regulatory instruments and programmes. This includes participation in NEDLAC (at the apex level).

¹⁶³ See Bhorat et al. n 47.

¹⁶⁴ However, it has been noted that workers may have already accessed their pensions multiple times, leaving insufficient funds for a comfortable retirement. This points to the need to review the role that pension funds, as well as social impact investments, could play in contributing to a just transition and sustainable development.

examined four policy options for guiding the Just Transition: job matching and skills transferability; retraining; income support; and early retirement funded by provident and pension schemes. Borat stressed the importance of a coordinated policy framework and the need for data-driven approaches, including using company data to accurately assess the number of workers, their ages, and their skills. He also highlighted the importance of involving stakeholders from government, industry, and labour unions to ensure that the transition is fair, inclusive, and adequately funded through a combination of public and private resources, such as retirement and provident funds.

Considerations raised at the workshop by organised business, labour, government, and stakeholders included the following:

- Downstream businesses need to be considered, as their survival is closely tied to the coal and electricity sectors even though they are not directly involved in them. More generally, there is a need for a holistic approach addressing all sectors affected by the Just Transition, and not just coal, given that other sectors (for example, agriculture, water use, and manufacturing) will also face the prospect of significant changes. Here, lessons from Mpumalanga should be heeded: the impact of plant closures extends beyond the plant to host communities and related industries, requiring a broader approach to addressing the impact on communities and sectors linked to coal. The community impact of coal mine closures was raised, and it was stressed that efforts should be made to support communities that are reliant on coal for employment.
- Interdepartmental cooperation involving business chambers, local authorities, and government departments is necessary to ensure a coordinated response to the Just Transition. There is also a need to coordinate NGOs and other such organisations involved in just transition efforts through sharing of resources and knowledge so as to ensure a unified, effective approach.
- Concerns were raised about the timelines for the transition and when companies would begin to wind down and consider alternatives for impacted workers. Similarly, there were concerns about whether impacted companies would continue to hire new employees, as well as about the possibility of impacted companies contributing to a fund or mechanism to cushion the financial impact of the transition, similar to social plans used in the mining industry. Questions were raised about options for sharing the burden of responsibility for managing the transition between employers. In addition, it was noted that it is important to consider different timeframes — short-term, medium-term, and long-term — when planning for a just transition, as the transition will not be homogeneous and will vary across sectors. In the short term, some sectors may manage to replace jobs, but in the long term, workers, especially those in the coal sector, will need to find alternative livelihoods in different sectors. In this regard, reskilling is crucial to help workers transition into more sustainable industries as the economy evolves. Sector analysis should clearly differentiate between short-, medium-, and long-term impacts and strategies, providing a clearer roadmap for transitioning workers over time.
- Job matching may be easier said than done, particularly since jobs in the renewable energy sector often have different standards and skill requirements to those in the coal sector. Earning differentials also need to be considered, given that income disparities may well arise when moving from work in the coal sector to work in other sectors. Many coal workers earn relatively high wages and support multiple families, making the transition particularly challenging for these workers and their dependents. Discussions on reallocating workers to new jobs should not focus exclusively on energy-for-energy job swaps in the coal and renewable energy sectors, as workers might end up in many different sectors other than renewable energy.
- An enabling environment is required for new job creation in emerging sectors in order to ensure that workers losing jobs and new entrants to the labour market are accommodated. Here, the SDA has an important role to play in ensuring that training is provided to workers and host communities, given the critical need for skills development in the broader context of the Just Transition.

- Existing processes and institutions, such as the PCC, SLPs, and IDPs, are useful frameworks, and if performing at optimal levels, could handle the complexities of the Just Transition.
- Developments in the platinum group metals (PGM) sector were highlighted, with note taken of the global shift from internal combustion engines to electric vehicles, key lessons from the PGM sector, and the need for preparedness (including an “early warning system”) in sectors that are impacted.
- There is uncertainty about the pace of the coal transition, including how long the global export market for coal will last and how quickly renewable energy will ramp up in South Africa. However, planners must avoid wishful thinking and prepare for worst-case scenarios. Clarity is needed on the decommissioning of coal plants, as uncertainty about timelines (for example, due to extensions of coal plant lifespans) complicates planning for a just transition, causing workers to delay preparations for job transitions.
- Concerns were noted about the adequacy of the UIF and its capacity to meet the demands of the Just Transition.
- In regard to occupational health and safety (OHS) legislation in the context of long-term climate-related health issues, it was noted that existing legislation, such as the MHSA, had expanded recently to cover illnesses that might develop long after exposure to hazardous conditions.
- Consideration should be given to expanding current SLPs, possibly through amendments to the LRA, to accommodate a just transition, particularly so in industries like coal. Severance packages could be tailored for workers displaced by such a transition, with a focus placed on ensuring adequate funding. It was suggested that work should be undertaken to ensure that SLPs are used as dynamic tools for just transition planning and not simply regarded as a “tick-box exercise”.
- The importance was noted of having a bargaining council (or similar structure) for the coal and energy industry, given that in 2019 employers withdrew from Minerals Council SA bargaining structures.¹⁶⁵ Such a council could address industry-wide transition and facilitate discussions on a just transition.
- Concerns were raised that the existing social security net is not extensive enough to support workers and communities affected by the Just Transition. There are significant disparities in social security coverage across employers in the coal sector, a situation which underlines the need for a uniform and comprehensive approach.
- The Just Transition needs to be addressed in the public sector, particularly at the Public Sector Coordinating Bargaining Council (PSCBC). Many public sector institutions still rely on coal-powered boilers, and the integration of green energy solutions has been slow or absent. The public sector and its facilities will also be affected by the Just Transition, and this should be included in future reports and analyses. Service providers and contractors working with public institutions should be included in the broader conversation on the transition, as they too will be impacted by the shift away from coal.
- The informal economy should be included in just transition considerations, with more attention given to the informal workers who will be affected by the transition, noting that there has been insufficient focus on this issue.
- The National Business Initiative’s [Climate Pathways and a Just Transition for South Africa](#) offers valuable insights into what business finds acceptable in emissions reduction. These pathways could be used as a basis for sector-level discussions, such as in bargaining councils, to assess their impact on jobs.
- The Just Transition provides an opportunity to promote gender parity in pay and employment in the new jobs that will be created within both existing and emerging industries – developments that would thus help advance gender equality in the country.

¹⁶⁵ See CHRO South Africa (2019).

- Overall, the situation is urgent, so there is a need for clear timelines and a legislative drafting process for introducing new laws or regulatory mechanisms to enable a just transition.

Building blocks for a just transition

1. Institutional integration and coordination
2. Integrated framework instruments
3. Access to social protection

7.2 Workshop consensus: Building blocks for a just transition

The general consensus at the workshop was that while it is unrealistic to expect certainty and a predictable transition from one sector to another, immediate action and measures are needed to prevent large-scale job losses and to create new opportunities for workers.

- A key theme of the workshop was the idea of **institutional integration** (“intersection of institutions and authorities”) between local government, businesses, and various government departments. Coordination is needed between institutions, which could be furthered, for instance, by engaging local government and relevant industries (across sectors) through forums such as bargaining councils. This could be undertaken on a regional or provincial basis, for example in Mpumalanga.
- In addition, more information was needed on opportunities for drawing on existing institutional frameworks (including the CCA and sector masterplans) that should inform coordination and institutional development. A priority need is for **integrated instruments such as SLPs** to delineate responsibilities and harness synergies for a just transition, including through interventions at the workplace and community or local authority levels.
- A further concern is the need, in particular, for expanded access to unemployment insurance and income support and, in general, for **access to adequate social protection** during all the stages of a just transition.

These three elements – **integrated institutions**; **integrated framework instruments**; and **access to social protection** – provide the **building blocks for a just transition**. Our recommendations below deal with each of them in turn.

7.3 Institutional integration: Building bridges to support just transitions

A just transition requires both robust institutions and well-designed instruments to manage responses to the complex social, economic, and environmental challenges and processes of shifting to a low-carbon economy. In terms of institutions, a **differentiated (sectoral) approach** allows for targeted interventions in “at-risk-value chains and sectors”,¹⁶⁶ that is, sectors such as energy, transport, agriculture, tourism, and the automotive value chain. However, interventions for a just transition should not be limited to these sectors.¹⁶⁷ Improved access to broader labour market mechanisms, including training and skills development, employment services, and access to social protection for workers and communities outside of established sectors, should also be prioritised to ensure that the processes are not exclusionary. In particular, the needs of vulnerable workers, including workers in the informal economy, and the need to address social security gaps, should be considered.

¹⁶⁶ See PCC [A Framework for a Just Transition in South Africa](#) (2022) at 10. However, *all* sectors should be engaging in dialogue on measures for mitigating and adapting to climate change, and not only sectors or industries where phasing out greenhouse gas emissions is likely to result in employment disruptions.

¹⁶⁷ In all industries and sectors, workers and employers should be cooperating on ways to adapt the operations of the employer so as to reduce emissions and address risks to sustainable development, regardless of whether the business or sector itself is directly impacted by the just energy transition.

A sectoral approach acknowledges the need for interventions to be tailored to the specific needs and dynamics of each sector. For example, the energy sector may require instruments and interventions focusing on decommissioning coal plants and retraining energy workers, while agriculture might need mechanisms addressing sustainable farming practices and rural job creation. In the municipal context, just transition imperatives specific to the area could be included in integrated development plans. By embedding the just transition processes within sectors, the evolving JT framework could support economic restructuring more effectively, while also supporting workers and communities.

At the **sector level**, more work is needed on the **mapping of stakeholders and institutions** and clarifying the roles and responsibilities of each; furthermore, there needs to be engagement with the relevant stakeholders and institutions on the coordination of just transition processes. The role of **bargaining councils** and **SETAs** should be considered. In the absence of existing bargaining councils for sectors, the possibility of establishing sectoral bargaining structures should be explored – for example, a bargaining council for the coal and energy sector, which currently lacks a central platform for industry-wide negotiations. These may also consist of temporary, ad hoc arrangements for the purposes of providing effective consultation and dispute-resolution mechanisms during a just transition process or project.

It is critical that the mandate, and the mode of operation, of sector-level institutions move **beyond narrow distributional bargaining** and that an **informed collaborative approach** is adopted to address the broader challenges associated with the impact of climate change on industries and workers. Sector bargaining institutions should play a key role in just transition planning. This requires meaningful participation in the **formulation of industry policy** (a primary object of the LRA)¹⁶⁸ and strategies that align the industry with climate adaptation and mitigation plans while facilitating re-employment, reskilling, and, where needed, access to income support.¹⁶⁹

The planning and implementation of a just transition should **leverage existing institutions**, including any relevant **bargaining councils**, or similar industry or consultative forums; statutory training bodies (**SETAs**)¹⁷⁰ should be included in such deliberations. In some sectors, the establishment of new sectoral institutions¹⁷¹ will be required to support the transition. Relevant government ministries and departments should be identified and included in the dialogue so as to ensure that sectoral institutions are effectively integrated into broader governmental strategies, as well as to foster collaboration between various stakeholders and sectors. It will also be important to include relevant industrial or sectoral policy processes, such as masterplans, which provide context on the relevant stakeholders and the strategies for the sector. In this regard, Table 9 below provides a cursory, incomplete yet illustrative “mapping” of selected institutions, industry policies, and oversight ministries across selected sectors.

- It should be noted that the DTIC is the key government department in respect of most masterplans, but that other departments take the lead on certain masterplans.
- Although we recommend a sectoral approach, **workers and communities** who may not fall neatly within defined sectors should not be neglected. Many workers, particularly those in **informal work, self-employment, or small-scale enterprises**, might operate across multiple sectors or in spaces outside of

¹⁶⁸ **Section 1(c)(ii) of the LRA** states that a primary objective of the Act is to “provide a framework within which employees and their trade unions, employers and employers’ organisations can ... formulate industrial policy”.

¹⁶⁹ These fall within the powers and functions of bargaining councils (LRA, s 28).

¹⁷⁰ See the [SETAs listed by the Government of South Africa](#).

¹⁷¹ These can be voluntary; in addition, the LRA must make provision for bargaining councils and statutory councils (Chapter III, LRA). Both such councils are discussed in section 4.1 above.

formal sectoral boundaries, requiring that we reimagine labour standards and social protection to be inclusive and adaptable, ensuring that workers on the margins of the economy are not left behind.¹⁷²

- Importantly, the role of **local government**¹⁷³ and provincial and municipal **integrated development planning processes** will be increasingly relevant, and we have included these in the mapping exercise.

Table 9. A cursory (incomplete) mapping of selected sectors (institutions, policies, ministries)

SECTOR	“SECTORAL” INSTITUTIONS	INDUSTRIAL/SECTORAL POLICY (MASTERPLANS) (DTIC)	MINISTRY/ DEPARTMENT	LOCAL LEVEL PLANS & INSTITUTIONS
<i>Note: Relevant SETAs have not been mapped onto the sectors</i>		<i>Note: when the CCA is operationalised, the Sector Adaptation Strategy and Plan by the Ministers listed in Schedule 2 will also be relevant (see Annexure B)</i>	<i>Note: On labour, employment services, and skills development, the DEL and DHET are relevant in all sectors. Other cross-cutting ministries include Small Business Development, Social Development and SARS</i>	
Agriculture	AAMO Oversight Committee AgriSETA	Agriculture and Agro-processing MasterPlan (AAMP)	Department of Agriculture, Land Reform and Rural Development (DALRRD)	Municipal Integrated Development Plans (IDPs) (provincial plans)
Energy	Energy Council of South Africa	Renewable Energy Masterplan (SAREM)	Mineral Resources and Energy (DMRE)	IDPs
Mining	Minerals Council South Africa	Mining and Beneficiation Masterplan ¹⁷⁴	Mineral Resources and Energy (DMRE)	IDPs
Tourism	National Tourism Sector Forum (?)	Tourism Sector Masterplan	Department of Tourism	IDPs
Automotive industry	Motor Industry Bargaining Council (MIBCO) National Bargaining Forum (NBF)	Automotive Masterplan to 2035 (Geared for Growth)	Department of Trade, Industry and Competition (DTIC)	IDPs
Transport sector	NBF; Transnet BC, Logistics and Road Freight BC, Road Passenger BC (?)	National Transport Master Plan (NATMAP) 2050	Department of Transport	IDPs
Construction sector	Various regional and local building industry bargaining councils	<i>The following may be relevant policy-setting institutions:</i> Construction Sector Charter Council Construction Industry Development Board	Department of Public Works & Infrastructure Council for the Built Environment	IDPs
Local government sector	SA Local Government Bargaining Council (SALGBC)	Municipal IDPs	Department of Local Government COGTA Human Settlements	IDPs EPWP

¹⁷² Worker organisations that engage with local authorities on behalf of their members include, for example, [the South African Association of Waste Pickers](#), representing (as the name implies) waste reclaimers.

¹⁷³ One aspect of this is the engagement between local authorities and communities regarding climate change adaptation, dealt with in the [SABS Standard](#) on adaptation to climate change – Requirements on adaptation planning for local governments and communities; other relevant standards include the ILO Transition from the Informal to the Formal Economy, 2015 (No. 204).

¹⁷⁴ See n 44.

	SALGA		Public Works & Infrastructure Water and Sanitation	
Provincial and National government sector	PSCBC & sectoral councils: ELRC; SSBC; PHSDSBC; GPSSBC ¹⁷⁵	National Development Plan	DEL DFFE DoH DMRE PME	

Collaborative and functional integrated sectoral institutions should be a priority. In this regard, the possibility has been floated of establishing an energy sector bargaining council¹⁷⁶ as a mechanism for coordination, one which, “as a sector and area”, could include both the coal-based and renewable energy sectors and coordinate with relevant SETAs (and possibly the JET Imp. Plan governance and institutional architecture for the electricity and Mpumalanga Portfolios) in overseeing the transition of employees to the renewable energy sector.

The bargaining council system is voluntarist, however, and constituting such a council would depend on the willingness, the strategic objectives, and the representativity of relevant employers’ organisations and trade unions in the energy sector. Nevertheless, the government (via the PCC or JET-Inv./Imp. Plan governance structures) could play a proactive convening and brokering role in bringing together the relevant parties to deliberate on the establishment of an overarching bargaining structure, either as a permanent structure or one dedicated to the transition.¹⁷⁷ Possible alternative sectoral pathways include statutory councils or the use of regulations or ministerial¹⁷⁸ or sectoral determinations.¹⁷⁹

At municipal level, community- or local-authority-based consultation mechanisms, economic development initiatives, skills development programmes, and access-to-employment services must be accessible by workers and communities in the local authority context if we are to achieve an equitable and inclusive Just Transition. The challenges in Mpumalanga and “**lessons from Komati**”, discussed in part 2, highlight the importance of this

¹⁷⁵ The Public Service Coordinating Bargaining Council (PSCBC) is a national and provincial coordinating council, with four designated sector councils: the General Public Service Sectoral Bargaining Council (GPSSBC); the Public Health and Social Development Sector Bargaining Council (PHSDSBC); the Safety and Security Sector Bargaining Council (SSSBC); and the Education Labour Relations Council (ELRC).

¹⁷⁶ Note the undertaking in the Collective Bargaining Code that “[t]he Government and the federations of trade unions and employer organisations in NEDLAC undertake to engage on a periodic basis to develop legislative and other measures to promote collective bargaining at centralised, sectoral and workplace levels and to deepen the representativeness of trade unions and employer organisations”.

¹⁷⁷ The bargaining council would prioritise a transition plan for the energy sector, and deliberate on how the relationship between the bargaining council and government is structured. At one extreme, the bargaining council could take a unique form in providing the government with seats at the negotiating table. However, a more feasible and flexible approach would be for the relationship to be structured in the form of an overarching transition programme for jobs in the energy sector. The objective of such a programme would be to achieve the final phase of the transition, with roles and responsibilities agreed upon by stakeholders at all levels. Arguably, this would provide a vehicle for extending organised labour’s role in representing workers in the job-creation and community-development phase of the energy transition.

¹⁷⁸ Among the ministerial determinations to have been issued are those pertaining to the welfare and small business sectors, in addition to which there is a Ministerial Determination and Code of Good Practice for Expanded Public Workers Programmes.

¹⁷⁹ Sectoral determinations apply to the contract cleaning sector; civil engineering sector; private security sector; clothing and knitting sector; learnership sector; private security sector; wholesale and retail sector; taxi sector; forestry sector; hospitality sector; domestic workers; farm workers; and children in the performance of advertising, artistic and cultural activities.

objective, the role of timing and sequencing in planned transitions, and the need for an “early warning system” that triggers when an industry, sector, or employer is in crisis or anticipates a crisis. In this regard, the potential for **an integrated instrument like the SLPs** to provide certainty, to delineate responsibilities, and to coordinate interventions at the sector, enterprise and workplace levels, as well as at the community or local authority level, was emphasised as a priority in stakeholder engagements.

7.4 Integrated framework instruments: Just transitions by design

Existing regulatory mechanisms for labour market transitions such as the social plans and the **SLPs** provide a useful approach and a “template” that can be augmented by taking into account “lessons learnt”¹⁸⁰ and aligned into an integrated framework instrument – “**a JT social and labour plan**” – for the coordination of mechanisms, policies and interventions supporting workers in employment transitions.

Part 5 of this report briefly set out the context for social plans and SLPs (as well as the TLS and TERS) and their use as mechanisms for employment transitions. As previously noted, CALS conducted a comprehensive [study on SLPs](#) (2014–2018) which revealed a number of shortcomings, including the following:

- inadequate engagement with communities, and absence of fieldwork to inform the SLP;
- inadequate information on consultation with communities;
- failure to address gender inequality;
- failure to make SLPs available to workers and communities;
- failure to plan and absence of feasibility studies for local economic development projects;
- lack of coordination between SLPs and municipalities’ local IDPs and inadequate assignment of roles and responsibilities; and
- lack of clarity on how mining companies will facilitate housing for workers and communities, and coordination with government housing projects.¹⁸¹

Most of the shortcomings are in the community sphere and relate to community involvement as well as the alignment between company plans and the activities and interventions by government and municipalities. As a result, CALS has argued for “an urgent shift in how SLPs are designed and implemented”, further to which it published a [Social and Labour Plan Mining Community Toolkit](#) to assist workers and communities. In its third report, [Alternative models for mineral-based social beneficiation](#), CALS concludes with recommendations for an improved SLP system (also providing model legislative provisions), which it divides into immediate interventions (there are 11 proposals) and two types of longer-term intervention. The CALS recommendations are set out in table 10. below.

Table 10. CALS Recommendations to improve the SLP system

<p>“Immediate interventions”</p> <p>“These relate to:</p> <ul style="list-style-type: none"> • Making the process of requesting information from the DMR under PAIA more accessible to communities; • Clearer legislative provisions regarding transparency of SLPs and annual compliance reports coupled with positive obligations to translate and disseminate them to communities;

¹⁸⁰ The challenges identified in the [CALS study](#) (2018) are revealed in three reports: [First report: Design Phase](#); [Second report: Implementation Phase](#); [Third report: Alternative Models for Mineral-Based Social Beneficiation](#).

¹⁸¹ CALS (2018).

- **Mining laws, regulations and policy** need to be developed in a manner **that recognises communities as a central role player**;
- ... **a problem solving service to address the grievances of mine-affected communities**;
- ... **a community capacitation fund** that is designed to complement the problem solving service;
- Specify **requirements for community participation** in the design and amendment of SLPs;
- Specify **Requirements for periodic reporting back to communities** on progress made in SLPs;
- Impose **clearer requirements in legislation with regard to addressing gender inequality** associated with mining;
- Formally **integrate the development of SLPs into the IDP annual review** and require community participation in this process;
- Quantify the **formula for determining required financial provision for each mining operation**; and
- Greater **regulation on securing companies’ financial commitments** with respect to SLPs”.

“Two longer term and more fundamental interventions” [alternatives to the SLP model]

“First, the changes that we recommend pursuing regardless of the particular model followed. These include **amending mining law** to give effect to the principle of free prior and informed consent, **a more robust framework for addressing the negative social and economic impacts of mining** and greater regulation of the trusts and other vehicles held on behalf of the communities on whose land mining takes place.

Second, we set out ... three possible alternatives to the present SLP model. The first of these was **negotiated SLPs**. This entails the **retention of the model of SLPs to be implemented by mining companies but requires the content of these to be the product of a formal negotiation between communities, organised labour, mining companies and government**. The **second model** involves the **replacement of project-based SLPs by a regional participatory structure**. The essence would be **a participatory process that moves to a regional forum which is designed to elicit mandates on projects directly from communities**. In our view, this is **the most promising approach, since it marries direct community involvement with regional multistakeholder coordination**. The **last model we have put forward is for a government agency** tasked with overseeing the implementation of local economic development of mine-affected communities, as per the Mining Charter of 2017.”¹⁸²

The first of the alternatives to the present SLP model proposed by CALS arguably runs the risk of entrenching power imbalances, while the third raises questions about capacity and duplication of roles with existing authorities. The idea of **regional forums** and how this could relate to **sector institutions** and integrated planning should be considered. In addition, CALS recommends “immediate” interventions that could inform the development of statutory provisions or a regulatory instrument as an enabling framework for the design and implementation of “JT SLPs”.

If an enabling framework for **JT SLPs** were to be designed, numerous questions arise, including the following:

- Roles and responsibilities and statutory mandates: Which entity or entities would be responsible for designing the enabling framework and for its implementation and enforcement?
- Could sectoral institutions be engaged to develop **JT SLPs** without requiring an enabling framework?
- Could **JT SLP processes** be attached to **current statutory development plans** and built into current development processes, such as the CCA sector strategies and plans and/or the MSA’s integrated development plans? Arguably, this should be the aim so as to avoid duplication or conflict between different authorities and plans.
- Which statute should “house” an enabling framework, and what type of instrument or instruments should be adopted (for example, a “National Just Transition SLP Framework” under the CCA, or “Integrated Social and Labour Plan Regulations” under employment law)?

¹⁸² CALS (2018) at 43–44. Emphases added.

NEDLAC and the PCC's involvement in responding to these questions should contribute to a coordinated and integrated (**labour** and **environment**) approach to a just transition rooted in inclusive social dialogue. An important consideration is the need for community-based projects and interventions,¹⁸³ as well as interventions for individual workers (such as job matching, retraining, or income support) that are based on the specific needs of each worker, with funding mechanisms being in place for where this is required.¹⁸⁴

7.5 Social protection in times of transition

Social protection¹⁸⁵ considerations include **income support** (see the examples in table 11) and, indeed, not only unemployment insurance or the possibility of a universal basic income grant, but also pension funds (which perhaps could include pension funds at a sector level) and contributions for workers affected in the future by the just transition. In regard to workers who need **relocation allowances**, considerations as to funding (where will funding come from, and whose obligation is it?) would have to take into account the circumstances of the relocation. Among the relevant issues here are whether the worker was an employee or self-employed, and whether, on the one hand, the worker is transitioning to equivalent work or formal employment, or, on the other, relocating home (or elsewhere) without prospects for work in the foreseeable future. In addition, social protection mechanisms should be considered to bridge income gaps for workers transitioning to new sectors with lower wages.

¹⁸³ Options for the funding of community-based economic development projects, suggested in CALS (2018) at 39, include a single fund “for each minerals complex, or municipality, in which all mining companies would ... contribute ... run by local government or housed at an inter-governmental level”; a process for allocating the fund would be determined through democratic processes within communities and in alignment with IDP processes.

¹⁸⁴ Borat et al. (2024) suggest that this should include consideration of provident and pension funds, with the state playing a role when top-up funding is needed. For example, employers in the coal sector contribute both to the UIF as well as to provident and pension funds (and administer the contributions of workers).

¹⁸⁵ The ILO Social Protection Floors Recommendation, 2012 (No. 202) defines “floors of protection” as the “basic social security guarantees which secure **protection aimed at preventing or alleviating poverty, vulnerability and social exclusion**” (clause 2). These comprise (in a combination of benefits and schemes) “at least the following basic **social security guarantees**: (a) ... **essential health care**, including maternity care ...; (b) **basic income security for children** ... providing access to nutrition, education, care ...; (c) **basic income security ... for persons** in active age who are **unable to earn sufficient income**, in particular in cases of sickness, unemployment, maternity and disability; and (b) **basic income security ... for older persons**” (clause 5).

Table 11. Example of JT funding mechanisms: Transition unemployment benefits and income support

The Workfare Programme Fund

In Mauritius, Part VII of the [Workers' Rights Act, 2019](#) makes provision for a Workfare Programme Fund, which is used for (s 77) “**transition unemployment benefits**” and the “financing of such **social plan** for the benefit of workers as may be prescribed,”, as well as “remuneration due to a worker ... in the case of force majeure”, which would likely include circumstances such as floods, hurricanes, fire, etc. The Workfare Programme Fund is funded by a levy specified by the Human Resource Development Act, funds appropriated by the National Assembly, and social security contributions made by employers.

A social plan to provide income support when work is stopped due to impossibility of performance

An example of a social plan is provided by the Workers' Rights [\(Social Plan\)\(Income Support to Workers\) Regulations 2024](#), which makes provision for “monthly income support equivalent to the basic wage or salary of an eligible worker” – in this case, from April 2024 to November 2024 in a particular region where employers cannot operate “due to infrastructural work being undertaken by the Road Development Authority”.

It was noted that the PCC is planning a conference on social protection in 2025 to explore gaps in the current system, find ways to support workers, and consider means to bridge income gaps due to the transition.¹⁸⁶

Institutional integration, coordination, and synergies are central to the just transition processes. Many of the issues raised in the report will continue to be explored within the Labour Market Chamber and in collaboration with the PCC to consider how to move forward with a just transition in terms of legislation and regulatory developments, including through development of integrated framework instruments and the improvement of access to social protection.

¹⁸⁶ In the context of social protection, two lines of enquiry were identified: (1) the Department of Social Development grants, which could include considerations for a universal income grant or basic income grant; and (2) the UIA schemes, which are on the agenda for revision (and could be dealt with separately by NEDLAC, or jointly with the PCC), noting that NEDLAC has experience with the TERS scheme.

Table 12. Levels of labour governance and spheres of government

<i>Levels of labour governance</i>	<i>Spheres of government</i>
<p>National – legislation and most labour services are national in scope (although the provision of many services devolves to provincial and local levels); trade union federations and peak-level business associations are national; and most major employers’ organisations and trade unions are national (albeit divided along sectoral lines).</p> <p>NEDLAC is the peak labour governance institution.</p>	<p>National government – ministries, departments and their regulatory instruments (legislation, regulation, policy, and statutory entities) are national, but tend to be distanced from the grassroots level (although the distance can be reduced by provincial and local branches) and operate in silos; this has led to attempts at coordination, be it from above, in the form of the expanding Presidency, at the ministerial level via clusters,¹⁸⁷ or in dedicated interministerial structures created by statutes (see, for example, the governance framework created by the DMA).</p>
<p>Sectoral – key collective bargaining structures (including bargaining councils) and education and training authorities (SETAs) are sectoral, and most of the major trade unions and employers’ organisations are sector-based or organised along sectoral lines.</p> <p>Also note the sectoral approach in the CCA.</p>	<p>Provincial government – its scope is limited and traditionally it has no role in labour regulation; however, it is responsible for provincial and regional planning, and will play an increasingly important role. The CCA sees existing intergovernmental provincial forums as serving as Provincial Forums on Climate Change.</p>
<p>Workplace* – collective bargaining takes place at the workplace; participatory decision-making structures (i.e. workplace forums and Future Forums) are also located at this level, and trade union organisation and recognition (and statutory organisational rights) are grounded in the workplace.</p>	<p>Local government (municipalities)* – traditionally their role has been limited, but municipalities will play an increasingly vital role in achieving a just transition; each municipality should have an IDP, and municipalities are closer than other spheres to communities for the delivery of services.¹⁸⁸ The CCA sees existing district forums as serving as Municipal Forums on Climate Change.</p>

* **Workplaces** and **municipalities** provide the physical spaces where employees and workers perform work (and the areas where communities reside). The permeable boxes reflect movement, as workers may transition out of employment or between jobs.

The energy transition is first and foremost a dynamic process that at different points will trigger connections within and across the realms of labour regulation, climate change law, and the public governance framework outlined above. The challenge will be to coordinate the processes to ensure an effective and just transition. Some of aspects of this challenge could be addressed explicitly in legislation, but most could be dealt with more flexibly through **guidelines, codes of good practice, or regulations**,¹⁸⁹ as well as via integrated planning and

¹⁸⁷ [Clusters](#) are in effect Cabinet sub-committees. They group together ministries or departments that are jointly involved in cross-cutting policies or programmes, the aim being to achieve a more coordinated approach by the government. An example is the Economic Sectors, Investment, Employment and Infrastructure Development Cluster (ESIEID).

¹⁸⁸ See Omarjee (2023) on requirements for adaptation planning by local governments and communities.

¹⁸⁹ Regulations, codes, and guidelines are regulatory instruments that can be issued by a delegated authority enabled in primary legislation (for example, LRA, s 208 Regulations; s 203 Codes of Good Practice; CCA, s 27 Regulations).

intergovernmental programmes. Sector-focused mechanisms include sectoral charters and bargaining council agreements, supported by industrial policy and enterprise development initiatives.

In terms of precedent, the coordination of different entities of government, along with the integration of legislative provisions, dedicated services, and financing mechanisms, has previously taken the form of social plans and simple programmes. The foundations of the social plan and **social and labour plan** models are, in many respects, sound (and can be improved upon by lessons learnt).¹⁹⁰ At the base of these are the provisions in the LRA to deal with retrenchments; training and re-training by SETAs; and assistance with job-matching and placement under the ESA.

However, effective implementation of the SLPs has been a challenge, and will require greater **coordination** between the labour regulation sphere and the government sphere, particularly as workers move out of the “protected” space of an employment relationship. Adequate mechanisms will need to be in place to *bridge the gap to the final phase of the transition* (access to jobs in a low-carbon economy, the creation of new jobs in the renewable energy sector, and the relocation of workers and their families to new communities). In this regard, consideration should be given to the *asymmetry between labour regulation and the framework for national, provincial, and local government, and the possibility of “equivalent” mechanisms and regulation within the local authority regulatory space to support a just transition for workers and communities.*

Notably, a **sectoral framing** is common to both the Just Transition and labour market regulatory approaches. The current regulatory frameworks in this regard have mechanisms for sectoral regulation¹⁹¹ that could be used in crafting provisions for a coordinated approach that supports labour market transition.

¹⁹⁰ The plans provide a working template for transition. Challenges in their implementation should inform improvements and the shaping of an appropriate instrument for the implementation of a just transition. (See CALS 2018.)

¹⁹¹ Under the LRA and BCEA. The relevant mechanisms include bargaining and statutory councils, sectoral and ministerial determinations, and regulations, which could also be designed on a sectoral basis. On the elements of a sectoral approach in the CCA, see [Annexure B](#).

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ANNEXURE A. COLLECTIVE BARGAINING: MODEL AGREEMENTS FOR A JUST TRANSITION

Model 1 – A shorter, more general model agreement¹⁹²

The (employer) and (union) acknowledge the immediate threat to the ongoing viability of the business and to job stability and security presented by rising greenhouse gas emissions which have been the cause of increasing average global temperatures and climate instability.

The parties to this agreement commit to a cooperative/collaborative approach to reducing those risks through actions which reduce emissions. It is recognized that there is likely to be fundamental changes required to the operation of whole sectors and to individual enterprises.

Climate, Environment and Sustainability

1. *The parties to this agreement recognize the shared benefits to the employer and employees of taking a cooperative approach to addressing key risks to the ongoing viability of the business and to job security.*
2. *The parties to this agreement recognize the risks arising from the climate crisis and commit to adopting a collaborative and consultative approach to reducing greenhouse gas emissions and mitigating risk.*
3. *The employer will provide information on the greenhouse gas emissions from its own operations and from within its supply chain at least annually. The employer will give a presentation to workplace union representatives and relevant union officers on the risks to business viability and job security posed by climate instability, how the emissions are measured, emission targets and plans for reducing emissions.*
4. *If the employer does not record, measure or plan to reduce emissions, the union and employer will meet to develop a step-by-step process to measure emissions, set targets and review progress.*
5. *The employer and the union will establish a climate, environment and sustainability committee which will reflect the diversity of the workforce and include women in its membership. The committee will engage in meaningful consultation and planning around the risks presented by the climate crisis and the implications for jobs and job security of measures which are planned to reduce emissions. Proposals shall be gender-sensitive and ensure equal opportunities for both women and men. Agreements should protect against discrimination of any kind during transition to new ways of operating and new jobs and work organization.*
6. *As part of its mandate to address the risks to sustainable employment presented by the climate crisis, the committee will:*
 - 6.1 *Consider the information presented by the employer pursuant to clause 3*
 - 6.2 *Consider and discuss initiatives to increase job security by addressing the climate crisis including:*
 - 6.2.1 *Sourcing workplace energy needs from renewable energy*
 - 6.2.2 *Improving energy efficiency of company buildings, equipment and machinery*
 - 6.2.3 *Reducing the environmental impacts of a company's supply chain*
 - 6.2.4 *Reducing emissions from company logistics and transport operations whether in-house or outsourced.*
 - 6.2.5 *Improving recycling and environmental protection across the business*
 - 6.2.6 *Waste reduction*
 - 6.2.7 *Considering changes to work organization, working hours and shift patterns which could help mitigate the effects of the climate crisis on job security. Any proposed changes should involve full consultation with employees and take into account family care responsibilities*
 - 6.2.8 *Considering the external risks to the business and job security presented by the climate crisis and identify mitigation strategies which might be implemented to ensure sustainable and safe employment*
 - 6.2.9 *Considering health and safety measures and policies during heat waves and other extreme weather events, including their specific impacts on women workers.*

¹⁹² Industriall (2022) at 31.

Model 2 – A more detailed model agreement regarding the energy transition¹⁹³

1. *The parties to this agreement recognise the shared benefits to the employer and its employees from taking a co-operative approach to addressing key risks to the ongoing viability of the business, and to job security. This clause sets out minimum consultative processes, and associated obligations, in relation to the impacts of energy transitions. The parties acknowledge:*
 - a. *That there is significant uncertainty in the future of electricity generation,*
 - b. *That this uncertainty constitutes major change for the purposes of the consultation, and*
 - c. *That this clause applies in addition to the provisions contained in the consultation clause.*
2. *The parties to this agreement recognise the risks and impacts to job security and the economy presented by climate change and the current energy transition. The parties commit to adopting a collaborative and consultative approach to mitigating and/or avoiding those risks and impacts and facilitating a fair and just transition for employees impacted by any changes.*
3. *During the term of the Agreement the parties recognise there may be the introduction of, and use of new technologies/plant, and/or retirement of existing technologies/plant which may impact the employment of employees. To mitigate these impacts, the parties commit to developing and establishing processes and plans which provide for:*
 - a. *No forced redundancies or relocations coupled with pooled voluntary redundancy schemes where appropriate, which allow for older workers at non-impacted work areas to nominate for voluntary redundancy creating a job or longer- term employment prospects for younger workers from the impacted area.*
 - b. *Lengthy notice periods of at least 5 years of future intention to close or substantially change technologies, to provide lead time to build replacement generation and/or plan orderly closures and to maximise opportunities for the workforce and their unions to negotiate fair outcomes. All notices of closure provided to [government agencies], including amendments to notices of closure, will also be provided in writing to employees and their Unions.*
 - c. *Comprehensive site rehabilitation plans which can provide an additional source of employment and deliver community benefits.*
 - d. *Funding and support to retrain power station workers including supporting their participation in any industry or Government programmes in consultation with employees and their Unions.*
 - e. *Cooperation and participation in any announced funding and support initiatives which diversify the regional economy that the employer operates in.*

Establishment of a Transition Working Group

4. *The employer commits to notifying and consulting with employees and their unions where the employer has made a preliminary decision on a proposal to introduce a change to generation technology which may include:*
 - a. *Retirement of some part or all its generation assets,*
 - b. *Planning, design, construction, maintenance, or operation of new generation assets,*
 - c. *Augmentation or upgrades to existing generation assets,*
 - d. *Planning, design, construction, maintenance, or operation of additional emissions reduction technologies, and/or*
 - e. *Any associated upgrades to existing technology resulting from any of the above.*
5. *Within 3 months of the approval of this agreement, the employer will facilitate the establishment of a consultative group to be known as the “Transition Working Group” which will include:*

¹⁹³ Industriall (2022) at 32–34.

- a. *X representatives chosen by the employer*
- b. *Y representatives chosen by the employees*
- c. *One representative of each Union party to this agreement*
6. *The work of the Transition Working Group will focus on the matters contained at clause 3. and 4. above and any other energy transition matters agreed by the parties.*
7. *The parties commit to making a joint representation to the relevant Government Departments and Ministers to seek appropriate engagement and representation to maximise transition opportunities for impacted workers as they arise. The parties will allow relevant Government representatives to participate in working group meetings if requested.*
8. *Where a broader industry/community transition group is established, the parties commit to supporting and participating fully in those processes and the employer will support employee representatives reasonably participating in that forum without loss of pay.*
9. *The employer will ensure employee representatives of the Transition Working Group have reasonable access to all the resources they require to undertake their work effectively including:*
 - a. *Mobile phone, computer, internet, and email*
 - b. *Printing, scanning, and photocopying*
 - c. *Relevant training supplied by their preferred provider*
 - d. *Reasonable paid time to attend meetings of the working group and to attend individual and group meetings of employees they represent*
 - e. *Reasonable paid time to perform work arising from the working group including collating employee feedback, researching proposals, preparing proposals and meeting with all relevant stakeholders.*
10. *At the first meeting of the Transition Working Group the employer will provide details of the preliminary decision, including:*
 - a. *The introduction of the proposed change,*
 - b. *The likely effect of the proposed change on impacted employees including the effect the proposed change could have on other employees including secondments, fixed-term employees, and contractors on site, including OH&S considerations,*
 - c. *Measures the employer proposes to take, or could take, to avert or mitigate the adverse effects of the change on employees, and*
 - d. *The likelihood of requiring redeployment through either internal and/or external employment transitions.*
11. *The working group will develop an agreed timeframe for the consultation period taking into account the consultation obligations contained in this clause and having regard to employee roster arrangements, the ability to consider the proposed changes, to seek advice, and to make and respond to detailed proposals.*

Internal Employment Transitions

12. *The employer will prepare and provide to the working group a matrix of all persons working in the business including current secondments, fixed term, casual and contract roles which will be used to identify possible opportunities to maximise permanent employment outcomes for impacted employees at the workplace they are currently engaged at.*
13. *Where it is identified employees may become surplus to ongoing operational/maintenance requirements due to the proposed change, a skills audit will be conducted to identify the skills/competency bank of impacted employees to identify the requirements for the workplace to continue to operate safely and efficiently as well as identifying any skills employees may have which will assist with an internal transfer to another role at the same work location.*
14. *These employees will be provided with the first option to take up any new positions created where there is*

an introduction of new or alternate generating technologies at the current work location they are engaged at.

- 15. Where a surplus employee/s is identified, and internal positions are either available or will become available, an analysis of any skills gaps will be conducted in consultation with the affected employee/s and a training plan will be developed with the relevant training occurring during the course of their rostered hours and at the cost of the employer.*
- 16. The employer will ensure that any offers of internal transfer to vacant positions are transparent and orderly by applying the following process:*
 - a. [notice] will be provided to all employees identifying the positions available and skill requirements (acknowledging that training will be made available to successful candidates as required).*
 - b. Successful candidates will be selected using [an agreed-upon selection process]*
 - c. Any dispute in relation to the suitability of a selected candidate/s will be dealt with by the convening of a conference of the workplaces regular Consultative Committee.*
 - d. If it cannot be resolved there, then the grievance/disputes procedure will apply including progressing the matter to the [relevant regulatory agencies] for resolution if required.*
- 17. Where it becomes evident that the internal transfer of employees at a particular location will not absorb all surplus employees an [agreed-upon] process will be utilised to identify employees who wish to take up redeployment via external employment transition opportunities at a different location to where they are currently engaged.*
- 18. Prior to advancing external employment transition arrangements all options for retraining and redeployment of staff including potential reorganisation of working hours arrangements shall be exhausted.*

External Employment Transition

- 19. Employees who will be displaced after all internal employment transition options have been exhausted will have first priority to transfer to other work locations of the employer including new and proposed greenfield sites, existing sites under construction and roles within wholly owned subsidiaries of the employer.*
- 20. The employer will ensure that all contracts entered into for planning, design, construction, maintenance and/or operation of new generation units will include enforceable terms requiring the contracted entities to accept reasonable secondments and permanent transfer of employment opportunities.*
- 21. Where a successful secondment or permanent transfer requires an employee to first acquire additional skills and training, the employer will arrange for the relevant training as a priority during the course of the employees' rostered hours and at the cost of the employer.*
- 22. Where the employer plans, designs, constructs, maintains and/or operates new generation units which requires employment of additional staff the employer will ensure that existing employees are provided opportunities to acquire skills, knowledge and experience in the new technology. A transition plan will be developed for employees who work on equipment that is or will be phased out to transition to the vacancies associated with the new plant.*
- 23. If there remain vacant positions following the above process, the parties will work to create a process to fill vacancies with workers from the local community and from the power generation industry who have been or are facing displacement from the energy transition elsewhere.*

Support for Impacted Employees

- 24. The Transition Working Group will support impacted employees and their families by actively exploring assistance through:*
 - a. Recognition and transfer options for [long service leave] accruals, and conditions (qualifying period, level of payment, how and when it can be accessed etc.).*
 - b. Relocation expenses, including relocation grants to assist with the disruptive costs of moving such as*

changing schooling, partners having to give up work to move with the main "bread winner".

- c. Training subsidies for individuals, to be available up to 12 months from the date of being displaced, in a field of their choosing which will assist in securing ongoing and permanent employment.*
- d. "Top-up" payments to employee's [pension/ superannuation] funds who were nearing retirement age and have had to leave the industry prematurely.*
- e. Mitigating any costs associated with the employee's employment being affected by the changes such as breaking of real estate leases, vehicle leases, early termination of contracts etc.*
- f. Assisting employees to access financial advice in relation to small business loans/grants, low interest packages for affected employees.*

Support for Impacted Communities

25. The parties recognise the employer has benefited from the extensive community infrastructure which supports both the employer and the employees. Therefore, the parties commit to working together to advocate for government support initiatives, including:

- a. Access to small business loans/grants, low interest packages for affected employees.*
- b. Assistance for communities who lose residents due to station shutdowns e.g. assistance packages for small businesses and public utilities/services who are adversely impacted by the reduction in population.*
- c. Housing losses where a closure causes the housing market to collapse via a purchase guarantee for employees who must relocate.*
- d. Low-interest loans for house purchases for employees who have had to relocate to gain employment.*
- e. Increased funds for social services to assist with the pressures of losing employment, e.g. suicide prevention programs, child support group, etc.*
- f. Incentives to employers to "take on" anyone affected with losing their job because of shutdowns, especially if there is a re-training requirement for a new employee.*
- g. The employer commits to funding a detailed study into the economic and social impacts on the local community of any proposed restructure or closure, with a particular focus on the effects on Schools, Hospital, Policing and social services funding and staffing impacts.*

ANNEXURE B. ELEMENTS OF THE SECTORAL APPROACH IN THE CLIMATE CHANGE ACT

Ministers who are responsible for the **functions listed in schedule 2** of the CCA are required to develop and implement a Sector Adaptation Strategy and Plan identifying risks and vulnerabilities within areas, ecosystems, and communities as a result of climate change, and the mechanisms and measures in response (s. 22 CCA).

SCHEDULE 2

NATIONAL DEPARTMENTS AND STATE-OWNED ENTITIES RESPONSIBLE FOR CERTAIN FUNCTIONS REQUIRED TO DEVELOP A SECTOR ADAPTATION STRATEGY AND PLAN

<ul style="list-style-type: none"> ● Agriculture; ● Education; ● Cooperative Governance; ● Forestry; ● Fisheries; ● Disaster Risk Reduction; ● Energy; ● Environment; ● Health; ● Human Settlements; ● Manufacturing; 	<ul style="list-style-type: none"> ● Public Enterprises; ● Rural Development; ● Land Reform; ● Science; ● Technology; ● Tourism; ● Traditional Affairs; ● Transport; ● Water Affairs; and ● Sanitation
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After the CCA comes into operation, a list of greenhouse-gas-emitting sectors and sub-sectors that are subject to sectoral emissions targets must be published by the DFFE minister (ss. 25 CCA), who is required to take into account the socio-economic impacts of introducing the targets and adopt policies and measures towards the achievement of the targets. The targets must be reviewed on a five-year basis, taking into account “the strategic important of the sector or sub-sector as a catalyst for growth and job creation in the economy” and “the agreed approach to the just transition”.

SCHEDULE 1

FUNCTIONS RELEVANT TO THE DEVELOPMENT OF SECTORAL EMISSIONS TARGETS

<ul style="list-style-type: none"> ● Agriculture; ● Forestry; ● Fisheries; ● Cooperative Governance; ● Traditional Affairs; ● Economic Development; ● Energy; ● Environment; ● Health; ● Human Settlements; ● International Relations; ● Mineral Resources; 	<ul style="list-style-type: none"> ● National Treasury; ● Public Enterprises; ● Public Works; ● Rural Development; ● Land Reform; ● Science; ● Technology; ● Trade; ● Industry; ● Transport; ● Water Affairs; and ● Sanitation
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ANNEXURE C. TYPOLOGY OF LABOUR LAW FUNCTIONS & MECHANISMS SUPPORTING A JUST TRANSITION

LABOUR LAW MECHANISMS THAT SUPPORT A JUST TRANSITION	WORKPLACE	SECTOR	COMMUNITY/LOCAL AUTHORITY ¹⁹⁴
<i>Provisions and framework for the implementation of mechanisms, financing, and direction towards a just transition</i>			
1. Consultation and collective bargaining framework (worker representation and participation)	LRA, ss 23, 24 (collective agreements) LRA, ss 78–94 (workplace forums) Social Plans (Future Forums)	LRA, ss 27–32 (bargaining councils) Masterplans (industrial policy) co-created by business, labour & government	<i>Direction: Collective representation and participation mechanisms for self-employed workers and communities in relation to local authorities; note the New SABS Standard on Adaptation to climate change – Requirements on adaptation planning for local governments and communities. (See also ILO R.204; C. 190.)</i>
2. Regulating retrenchments: restructuring and job losses (see below for income support and relocation)	Retrenchment processes: LRA, ss 189, 189A & OR Dismissal Code BCEA, ss 41 (severance pay) Social Plans (SLPS in mining sector) ESA job-seeking assistance	Sector charters (e.g., Mining Charter) <i>Direction: Ensuring compensation and social protection for workers in affected sectors [ILO adaptation]</i>	ESA job-seeking assistance Public employment schemes (promoting environmental sustainability)
3. A skills development framework for training and reskilling workers for new jobs, job transitions (transfers), employment & job creation	SDA & SDLA (NSF) ETIA Youth employment incentive TERS/TLS ESA	SDA & SDLA (NSF) Sector skills plans SETAS e.g. EWSETA, CHIETA, MQA SETA; AgriSETA, CETA, TETA <i>Direction: Role of the SETA's (rearranging the SETA formation?)</i>	SDA/ESA (improve access) <i>Direction: Role of local authorities – improved service delivery; waste, recycling, and circular economy; supporting entrepreneurship Job creation in the green economy; worker ownership and cooperative development</i>

¹⁹⁴ “Community” includes self-employed and informal-economy workers who fall outside the boundaries of labour and employment law, and refers to the broader interests of the communities or families impacted by the loss or gain of workers due to job transitions in the labour market. Local authorities play an important, active role in leading and coordinating a just transition.

<p>4. Unemployment insurance and income support (see below for income support in an emergency and in the course of disaster management)</p>	<p>UIA/UICA unemployment benefits for retrenched workers</p> <p>TERS income support for working-time reduction and skills development</p>	<p><i>Direction: Financing mechanisms for improved income support and reallocation allowances supporting a Just Transition</i></p>	<p><i>Direction: Public employment schemes; income support and investment in green energy/tax incentives for energy-poor households; improved service delivery</i></p>
<p>5. A safe and healthy working environment (including BCEA regulation of working hours)¹⁹⁵</p>	<p>OHSA Extreme heat and environmentally induced stress at work</p> <p>BCEA Schedule 1 Reduction of working hours</p> <p>Income protection (UIA, COIDA)</p> <p><i>Direction: Extreme heat regulation (hours of work, breaks, hydration, appropriate clothing)</i></p>	<p>OHSA Extreme heat and environmentally induced stress at work</p> <p>Reduction of working hours</p> <p>Income protection</p> <p><i>Direction: Extreme heat regulation (hours of work, breaks, hydration, appropriate clothing)</i></p>	<p><i>Direction: Service delivery; extending access to social protection/assistance</i></p>
<p>6. Emergency and disaster management (Temporary relief when a business is damaged or destroyed)</p>	<p>DMA Regulations and Directives</p> <p>UIF Regulations</p>	<p>DMA Regulations and Directives</p> <p>UIF Regulations</p> <p><i>Direction: Sectoral policy measures</i></p>	<p>DMA Regulations and Directives</p> <p><i>Direction: Integrated and coordinated response, role of local authorities</i></p>

¹⁹⁵ See Godfrey S & Collier D “Climate-proofing” labour law: Adapting to increased heat and extreme weather events NEDLAC Report (2024).

THE NEDLAC LABOUR LAW SERIES

The **NEDLAC Labour Law Series** consists of research outputs aimed at supporting NEDLAC and its social partners to develop policy and where appropriate legislative amendments in ongoing labour law reform processes. The series addresses identified areas of labour law that respond to the changing nature of work, the future of work, and the labour market impacts of a just transition to a low-carbon economy. It also focuses on improving social protection for non-standard workers, addressing bottlenecks in existing labour market systems, and enabling economic growth and sustainability for small and emerging businesses.

A collaborative evidence-based approach was used in the development of the outputs, incorporating stakeholder engagement, comparative perspectives, and international labour standards. The outputs are designed to support social partners in shaping responsive labour law and policy and to facilitate capacity building for government, labour, and business constituencies. The series considers the following key concerns

- *Workers who are not employees*
- *Remote work*
- *Enabling a just transition*
- *Efficiency of labour market institutions responsible for adjudication and enforcement of awards*

The outputs in the Labour Law Series were developed through NEDLAC processes including scoping workshops, the preparation of think pieces, stakeholder engagements, and capacity-building initiatives. The outputs are tailored to address South Africa's specific labour market challenges and opportunities.

The series consists of the following outputs –

- No. 1 | *Efficiency of labour market institutions: Towards effective dispute resolution and labour justice* (2024), by Paul Benjamin and Debbie Collier
- No. 2 | *Workers who are (not) employees: Promoting decent work and access to labour standards and social protection* (2024), by Debbie Collier, Darcy du Toit, Mario Jacobs and Abigail Osiki
- No. 3 | *Remote and hybrid work(ers): Considerations for regulating remote working arrangements and a Code of Good Practice for Remote Work* (2024), by Debbie Collier and Abigail Osiki
- No. 4 | *Optimising labour law for a just transition* (2024), by Debbie Collier, Shane Godfrey, Vincent Oniga and Abigail Osiki
- No. 5 | *“Climate-proofing” labour law: Adapting to increased heat and extreme weather events* (2024), by Shane Godfrey and Debbie Collier

The series is designed to encourage social dialogue and critical discourse on the development of labour law and to build the capacity of social partners and enable their engagement in shaping a just and inclusive labour market. The outputs and recommendations are intended as a foundation for future direction, and feedback and comments are welcomed to inform ongoing developments. Correspondence may be emailed to centrow@uwc.ac.za, or to the authors contact details included in each publication.

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