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Another Look At The Costs Of The New Labour Act, 2004

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Abstract

This paper is as an extension to the current debate on the perceptions that the soon to be introduced Labour Act of 2004 will impose real costs on the economy. Taking into account some of the views and papers written in this regard, the analysis shows that the Act will impose some real costs on the economy in terms of its impact on the productive capacity of the economy and wage costs. However, after controlling for some factors, we find that such costs could be lower than earlier thought. Nevertheless, the final analysis shows that the private sector will bear most of the brunt.

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1. Introduction

Suffice to say much has been said and to some extent written about the soon to be promulgated Labour Act of 2004 and its perceived impact on the economy. Interestingly, much of the debate thus far has centred on issues that relate to basic conditions of employment. As often is the case, two views have become prominent in the debate. On the one hand is the private sector, which argues that some of the changes made to the Act particularly those dealing with leave days will have far-reaching consequences to the development of the private sector and the country as a whole. To prove this, the Namibia Employers Federation (NEF) commissioned a study in the middle of 2005 looking at quantifying the effects of the Act. The study, carried out by NEPRU, showed that there were indeed costs that would arise if the Act were to be implemented. These include a reduction in the productive capacity of the economy due to the increase in annual leave days and the introduction of compassionate leave, wage expenses on maternity leave and other costs that relate to payment of outstanding leave and severance pay.

On the other hand, government and trade unions argue that these changes are necessary and thus in-line with one of the core objectives of the Act namely: “to further a policy of labour relations conducive to economic growth, stability and productivity” (GRN, 2004. pp. 8). Similarly, the line ministry reacted to the NEPRU study as being “grossly exaggerated” as it failed to take into account the fact that some of the so-called changes were in fact not entirely new, specifically, such as the 24 consecutive working days and compassionate leave (Dentlinger, 2005). The purpose of this paper therefore will be two fold. Firstly, to correct for some methodological problems in the NEPRU paper and secondly, incorporate views by government with some of the findings² in the NEPRU study. In the end, this should be able to tell us whether indeed the implementation of the Act shall result in real costs to the economy. However, the paper should be seen as neither a critique nor review of the NEPRU paper, but rather as an extension as we seek to understand the issues concerned, namely the costs of the new Labour Act (2004). It is also not the purpose of this brief to delve into discussions regarding definitions or description of certain articles or sections of the aforesaid act.

2. Cost of leave days

According to the new Labour Act of 2004, employees will now be entitled to 24 consecutive working days in leave days as opposed to 24 consecutive days in the previous Act. This has been interpreted by some as an addition of six days to the annual leave cycle (see Lejonhud and Haimbodi, 2005, and de Beer, 2005).

² It is expected that the final Act will carry no changes on outstanding leave payments (see Dentlinger, 2005). Therefore we shall only concentrate three issues that are likely to remain as proposed in the draft –i.e. changes to the annual leave days, compassionate leave days and maternity leave.



Furthermore, employees will also be entitled to five working days as compassionate leave days. The potential cost of these extensions should be seen in two ways. First, they represent lost productive time and secondly, employers have to incur wage expenses for which no service is rendered.

2.1. Production cost

Based on calculations by Lejonhud et al (2005), it was found that additional leave days would reduce GDP by a combined amount of about N\$ 306 million or 2% of GDP (N\$168 million and N\$139 million for additional annual leave days and compassionate leave days respectively). Unfortunately, while understanding the experimental nature of this approach the methodology adopted in this regard limits the usefulness of these rough estimates. This is due to two reasons. The first has to do with their calculation of annual working days, which they put at 225 days after accounting for weekends (104 days), national holidays (12 days) and leave days (24 days). However, since weekends are excluded as part of working days, leave days should therefore be 18 working days as consecutive leave days includes three weekends -i.e. six days. Thus by not excluding these would result in an overestimation of productivity per worker since working days should be 231 rather than 225 days. The second concerns the arbitrary choice of two thirds of the total workforce as directly involved in production. However, this assumption is rather unfortunate since it implies that one third of the employed workforce in Namibia is practically redundant. After correcting for these omissions it can be shown that the total amount of GDP loss would amount to N\$719 million or 4.8% of GDP as opposed to N\$309 million as calculated by Lejonhud et al (2005)¹. From such figures, two issues are worth considering. On one hand, it is clear that the implementation of the Act will indeed result in significant costs not only to employers but also to the economy in general and thus should be seen as counterproductive to the government's stated objective of productivity and economic growth. In addition, it also seriously jeopardises the country's vision of attaining industrialisation by year 2030.

On the other hand however, apart from the figures being experimental, the approach assumes that the 24 consecutive working day annual leave and compassionate leave will be a new practice in Namibia. However, there is evidence to the fact this may not necessarily be true. For instance, government employees have always enjoyed a 24 consecutive working days leave and 10 days for compassionate leave (Dentlinger, 2005). Indeed, it follows that if we were to exclude government from the production equation, the overall reduction in GDP would go down to 3.8%². Also, it is interesting to note that surveys of larger companies in Namibia annually conducted by Jobs Unlimited show that about half of the employees receive annual leave exceeding 18 working days, and this figure is higher among more qualified staff (Van Vuuren & Smit, 2004, and Smit 2002). Another issue concerns how employees take their annual leave days, whether consecutively or

occasionally. In the latter case, employees would opt to ration their leave days such that if the occasional leave is taken during or within a week, the total leave days could equal 24 working days. Indeed, such behaviour could be seen as rational among employees who work from Monday to Friday since they would not consider weekends as working days.

Another important issue to consider and perhaps one that has hardly received attention in almost all analysis regarding the impact of new Labour Act 2004 concerns the remuneration of personnel undertaking annual leave. Accordingly, persons on annual leave will no longer be entitled to full remuneration but rather only that part which constitutes basic wage. The impact of this outcome lies in the possibility that employers could, through these savings, hire temporary workers during times when their permanent employees are on annual leave and thus mitigate losses due to their absence. Our calculations³ thus far show that about 76,209 (or 70% of the unemployed) temporary workers would be hired at the daily basic wage of N\$70.80⁴. Accordingly, the temporary workers would contribute about 1.8% to GDP and thereby reducing the impact from 3.8% to 2.0%⁵. Needless to say, more employees would be hired and more goods and services produced if the daily basic wage were lower than N\$70.80 or if the allowances and benefits were higher than the estimated 15% of the basic wage.

The calculations above can be summed in the following table

Production cost due to additional leave days

	Initial cost	After controlling for government	After controlling for casual workers
Cost scenario's	N\$719 million	N\$567 million	N\$290 million
Cost as percentage of GDP for year 2000	4.8%	3.8%	2.0%

These figures show that there is indeed a possibility that the impact of additional leave days may not be as pronounced as one would have thought initially. Indeed, it is probable that these figures could even be lower if we were to take into account companies that have always given more than 18 working days leave in the past. Similarly, while the provision of a five working day compassionate leave might be discouraging to some employers, it is difficult to think that such leave might not have existed in the past. Indeed, it is inconceivable to think that companies would refuse leave to employees whose immediate family members have died since such employees would not much be productive in any case. Inconceivable as it might seem however, the impact is likely to be felt by firms (if any) that did not offer such leave.



Nonetheless, the expected hiring of temporary workers to replace those on leave needs to be put into context. Firstly, it is expected that such hiring will most likely occur in lower paid jobs particularly where specific or special skills are not a requirement, since the possibility of finding temporary skilled workforce could be very limited given the shortage of skills locally. Secondly, it will depend on the type of allowances paid –i.e. in-kind versus monetary allowances. While the latter could be easily transferred, the former could prove very difficult to transfer or re-allocate. This is likely to be the case in the agricultural sector where most allowances are in the form of in-kind benefits such as housing among others. For instance, a wage survey by the Agricultural Employers' Association (AEA) show that in-kind benefits constituted close to 90% of the basic cash wage compared to about 53% in monetary terms (AEA, 2004, pp, 21). Nevertheless, even where monetary benefits apply, these could be difficult to withhold due to their nature – e.g. medical aid, pension, and housing allowance contributions as opposed to transport allowance.

2.2. Wage costs

2.2.1. Annual and compassionate leave days

Perhaps it is important to clarify that the cost that employers will have to incur due to additional leave days will not be in the form of an enlarged wage bill but that they will now have to pay for services not rendered. To proceed, we first have to determine the wage cost of leave days in the old Act. In doing so, the daily wage is multiplied by 18 days and then by the total workforce –i.e. daily wage x 18 x total workforce. From calculations done earlier (see endnote 3 and 4 below) the daily wage is given as N\$83.29 and total workforce as 431,849. Therefore the total cost is N\$ 647.44 million. To determine the cost under the new Act, the daily basic wage is multiplied by 24 and then by the total workforce –i.e. daily basic wage x 24 x total workforce. From above calculations we know the basic wage is N\$ 83.29 x 0.85 = N\$ 70.80. Therefore, the total cost under the new Act is N\$ 733.77 million. The difference between annual leave day costs under the Old and New Act is: N\$ 733.77 million – N\$ 647.44 million = N\$ 86.326 million or about 0.9% of total labour costs. However, this figure could significantly go up to more than N\$260 million or 2.9% of the total wage bill when the cost of compassionate leave days is added³. Therefore, it is quite evident that the new Labour Act of 2004 will increase labour costs in the sense that though employers would still have paid the same amount in any case, they will now have to pay for no service. However, as pointed out earlier, it should be obvious that the government sector shall not be affected as it has always had 24 working days leave. Thus by accounting for public servants from the total workforce, the wage bill cost reduces to 2.2%⁴

³ The cost of compassionate leave days is obtained by multiplying the daily wage by 5 and then by the total workforce – i.e. $83.29 \times 5 \times 431,849 = \text{N\$ } 179$ million.

⁴ According to the NLFS of 2000, government employees were estimated at 99,166. Subtracting this from the total workforce we get 332,683. We then substitute this figure in the calculations above to obtain



2.2.2. Maternity Leave

Regulations governing maternity leave perhaps represent the most significant change from the old Act of 1992 to the current one. In the former, employees going on maternity leave were not entitled to any remuneration from their employers but would rather claim some benefits from the Social Security Commission. However, the current Act requires employers to pay full remuneration to their employees on maternity leave after which they can claim that part which constitutes basic wage from the Social Security Commission. The fact that employers are now required to pay a portion (the difference between basic pay and gross pay) represents additional costs on top of foregone labour to employers. Lejonhud et al (2005) estimated the cost due to this change to be more than N\$13 million annually. However, due to the fact that they used only two thirds of the total workforce when calculating average wages, this figure was somewhat overestimated by some N\$5 million, and thus after substituting the total workforce into the equation the figure dropped to around N\$8 million⁵. Nevertheless, it is clear that this change will raise employment costs. However, as in the case of other leave days, the overall impact will depend on the significance of allowances paid besides the basic pay and also whether it is a new requirement. For instance, a survey of about 60 large firms by Jobs Unlimited in 2002 shows that some 16% of these paid at least about 50% of the employees' wages on maternity leave (Smit, 2002). Unfortunately, it was not possible to distinguish whether such company policies applied to all levels of staff whether were meant as incentives for designated senior positions.

Summary of wage bill costs

	Cost to economy	As % of total labour costs	After controlling for government employees
Annual & compassionate leave days	N\$260 million	2.9%	2.2%
Maternity leave	N\$8 million	0.1%	

3. Regional context

With current efforts towards regional integration, it is only logical to compare the policies of a country to that of its immediate or strategic neighbours and Namibia is no exception in this regard. In the table below we provide a comparison on basic conditions of employment between Namibia and two SACU countries namely; Botswana and South Africa. Since all countries are members of the International Labour Organisation (ILO) an

⁵ This figure is obtained by replacing the two-thirds workforce with the total workforce in Lejonhud and Haimbodi 's calculations of the costs associated with maternity leave.



additional row is provided for to show requirements as per the ILO conventions⁶. As the table shows, Namibia accords more leave days than either of her neighbours and therefore can be said to have fewer productive days. It is also obvious that even in the absence of new regulations Namibia would still have more annual leave days than her neighbours. Indeed, such divergence does not augur well for economic integration and attainment of high productivity.

	Annual Leave in working days	Compassionate Leave in working days	Maternity Leave in weeks
Namibia	24 (basic wage)	5	12 (full pay) ⁷
Botswana	15 (basic pay)	-	12 (1/4 of daily basic wage) ⁸
South Africa	15 (full pay)	3	4 consecutive months ≈17 weeks ⁹
ILO Convention/ Recommendation	15 ¹⁰ (full pay)	-	14 –18 (subject to national policies)

4. Conclusions

This paper has looked at the possible costs that are likely to result from the implementation of the new Labour Act (2004) and the following have been observed.

- *Production costs.* The introduction of additional leave days will reduce the number of productive days and thereby the productive capacity of the economy. Some basic estimates show that such extensions would reduce annual GDP by 4.8%. However, after controlling for government employees and new regulations on remuneration of employees on annual leave, this impact is reduced to at least 2.0% of GDP. It is also possible that this production cost could be even lower given some evidence that some employers have been extending annual leave days exceeding the minimum 18 working day period. While it has been observed that employers could use savings on annual leave expenses to hire temporary workers, the shortage of skilled workforce remains an obstacle.
- *Wage bill costs.* The fact that employers will now have to pay a similar wage bill but for no service rendered represent significant costs. Basic estimates show that the introduction of additional leave

⁶ Please note that being member of the ILO does not mean automatic ratification of any convention. Thus, the fact that ILO conventions are provided is merely to show the status of each country with regard to the ILO conventions and recommendations.

⁷ Basic monthly wage to be paid by the Social Security Commission and the rest by the employer

⁸ To be paid by employer

⁹ Maternity benefits to be claimed from Unemployment Insurance Fund. Total amount may not exceed total remuneration

¹⁰ Interim status



days and regulations on maternity leave will account for about 3% of total labour costs altogether. However, this could fall to 2.3% after controlling for government employees.

Overall, what is clear from the analysis is that the introduction of additional leave days will indeed have a bearing on the productive capacity of the economy as well as wage costs. However, since such policies will not be new to the government sector, it is expected that the private sector will be affected the most. As such, the Act cannot be seen as an instrument through which private sector development could be encouraged and thus could hamper efforts toward the achievement of vision 2030. Finally, with current efforts geared toward regional integration, Namibia cannot afford the luxury of more leisure. What Namibia need is more work and less leisure!

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¹This can simply be obtained by multiplying daily GDP by the 11 leave days, where daily GDP is obtained by dividing GDP by the number of productive days as shown below:

$$\frac{\text{GDP}}{\text{Number of productive days}}$$

i.e. $\frac{15,100,000,000}{231} = 65,367,965.37$

$$65,367,965.37 \times 11 = 719,047,619$$



Where GDP figures are for year 2000 at 1995 constant prices (National Accounts 1994 – 2002): CBS 2003

The loss of production due to six additional annual leave days is 65.4 million x 6 = 392.2 million or 2.6% of GDP. Similarly the reduction in GDP due to compassionate leave is 65.4 million x 5 = 327 million or 2.2% of GDP.

² Using the Lejonhud et al (2005) GDP figures of year 2000, government production accounted for 21.4% of the economy, thus by reducing this percentage from the N\$15.1 billion we obtain N\$11.9 billion. Replacing this figure in the formula above we obtain N\$566,666,666.66 as the overall reduction in GDP or 3.8% thereof.

³ The savings on leave days by employers could roughly be estimated by using the following formula:

$$\left[\left(\frac{\omega/\kappa}{\beta} \right) \theta \right] [(1 - \alpha)] = \Pi$$

Where

ω Is the average wage defined as total wage divided by total workforce

κ Is the number of weeks in a given year -i.e. 52 weeks

β Working days in a week where, as per the example of Lejonhud et al (2005) we assume a five working day week.

θ Annual leave days –i.e. 24 days

α Is the basic wage ratio defined as basic wage divided by total remuneration. As per Lejonhud et al (2005) we shall assume that the basic wage constitutes 85% of total remuneration -i.e. $\alpha = 0.85$.

Π Allowances per employee

To calculate the expected savings, we proceed by first obtaining the average annual wage per employee as defined

above i.e. $\frac{9,352,000,000}{431,849} = 21,656.72$

Substituting this in the formula above obtains the following:

$$\left[\left(\frac{(21,656.72/52)}{5} \right) 24 \right] [(1 - .85)] = \Pi$$

$$\left[\left(\frac{416.46}{5} \right) 24 \right] [(1 - .85)] = \Pi$$

$$[(83.29) 24] [(1 - .85)] = \Pi$$

$$(1998.99)(0.15) = \Pi$$

Therefore $\Pi = 299.85$. By multiplying this figure with the total workforce we obtain the total savings in allowances –i.e. $299.85 \times 431,849 = \text{N\$ } 129,5$ million. Therefore, employers will be able to save about N\$130 million on wages, representing 1.4% of total remuneration.

⁴ This figure is obtained by multiplying the daily remuneration by 0.85 –i.e. $83.29 \times 0.85 = 70.80$. Multiplying this figure with 24 days will give us the payment of one replacement worker for doing work for 24 days (N\$1699.14). Dividing the total savings in allowances with this figure will give the total number of temporary employees that would be hired –i.e.

$$\frac{129,489,230.8}{1,699.14} = 76,209$$

⁵ Using the 2000 GDP figures, with employment figures from the 2000 National Labour Force Survey we can calculate annual GDP per worker as: $15,100,000,000/431,849 = \text{N\$ } 34,965.92$. Dividing this figure by the number of working days we obtain daily GDP per worker as: $34,965.92/231 = \text{N\$ } 151.37$. Multiplying this figure by 24 days and 76,200 workers we obtain how much the replacement or casual workers would contribute: $151.37 \times 24 \times 76,200 = \text{N\$ } 276,821,145.97$, or 1.8% of GDP. Since this is a positive contribution to GDP, it means the negative impact would be reduced from 3.8% to 2.0%.

