Conclusion
Conclusion and Recommendations

Statistics recorded from the 2012 strikes reflected that the country experienced more strikes at an increase of 32% as compared to 2011. More strike recordings were from the mining, community and the manufacturing industries. Following the increase in work stoppages, workers lost about R6 666 103 906 to wages from R1 073 109 003 in 2011. The strike action adversely affected the country’s economy and investment in the mining sector. This year’s strike season was seen as the most violent and bloodiest as compared to other years.

Unlike last year where most labour unrest occurred during the “Winter Seasons”, strikes in 2012 escalated over to the Summer Season. It was evident that most strikes were wage related and for better working conditions.

Based on the analyses above the following elements are recommended in addressing the challenges faced in the labour market:

- Employers need to get more into the minds of employees over what they are thinking and know how together they can create better communities and a better future for all
- Mining companies and municipalities should increase collaboration and help government with capacity building to ensure less fighting among themselves, less defensiveness so that they can strive for improvement of the broader communities
- Change in the content and working structure is necessary within the company in order to remain relevant. The nature and character of this change must be informed by the prevailing context of socio-economic and political transformation.
- Workers need to accept traditional bargaining structures
- Government, business and labour need to meet and discuss a new roadmap for the mining sector. It is essential for government to create a sense of confidence in the sector
- Government has to relook at poverty, unemployment and inequality in line with the social condition of workers. This can be addressed by relooking at wage structure of South Africans. Economic Condition Commission recommends the government, labour, employers and other interested parties to address the growth, wage and employment issues in the sector18
- The government needs to take control of the situation and solidify practice and protocol with regard to wage negotiations before the nation’s mining sector becomes un-investable as a result of the strikes that impacted on the gold, platinum, chrome, coal, diamond and now iron-ore sectors.

18 Economic Condition Commission, February 2013, pg 80
Department of Labour senior manager’s views regarding the labour unrests in 2012:

a. Issue regarding Marikana:

**DDG – LP and IR: Mr. Les Kettledas:** (i). Unions have to service their members regularly. The situation could differently be managed if the leadership could channel member’s demands. In other words, better leadership was lacking on the ground

(ii). Human Resources should have effective engagement with the working structure in place in order to effectively manage the situation. It transpired that the company was not willing to talk to the employees in particular those who were not directly employed by the company

(iii). There is a need to train workers.

**Chief Director - LR: Mr. Thembinkosi Mkhalipi:** (i). the right to strike is a constitutional right, the devil is the violence. The Department will introduce a mechanism to avoid the violence strike by changing the law. There is a need for dialogue amongst all parties to address this violence issue even though other perceived violence as an instrument to achieve something

(ii). There is a need to invest enough time to educate and improve workers skills

**Director - CB: Mr. Ian Macun:** (i). what trigger the strike was the awarding of the contract outside the Bargaining Council. We need an improvement with regard to respect to procedures.

b. Issue regarding De Doorns:

**Acting Director –ES: Titus Mtsweni:** (i). Previously, workers were paid in kind but the sectoral determination allowed the introduction of the minimum wage. It is about poverty alleviation where we need to establish a balance between employers and workers regarding affordability and the living conditions (transports, accommodation etc)

(ii) The broader challenge is that trade unions are not visible and united to negotiate effectively. There is little mobilisation at the negotiation table. There is a need for broader kind of intervention. The Nedlac should be involved in the process to deal with long term issues. In addition, there is a need to change mind of employers and workers.

(iii) In order to address the issue of minimum wage gaps for vulnerable employees the Department of Labour suggests on additional social benefits that will enable workers to meet their needs adequately. *(Titus Mtsweni)*

c. Issue regarding Collective Bargaining:

(i). The LRA promotes the Collective Bargaining. This means that we need to ensure that all parties determine their own affairs... *(Titus Mtsweni)*

(ii). There is no question that the Collective Bargaining was not effective in the mining. It should be noted that different sectors have different ways of negotiation. In the De Doorns, all parties reached a deadlock. The Collective Bargaining could not be able to achieve what was intended to achieve... *(Ian Macun)*

(iii). There is no doubt that there are some areas to improve at the Collective Bargaining but government believes that it is the right way to go. It was for the first time in Cape Town that workers were not organised whereas in the Marikana case workers were organised... *(Thembinkosi Mkhalipi)*.
d. Averting strikes:

(i). The role of unions is very different. In the mining sector, NUM and AMCU tried very hard to avert the strike but they were unsuccessful because of lack of trust amongst workers. Thus there is a need for unions to build good structure and increase membership on the ground and not be fearful to loose members... (Ian Macun)

(ii). At De Doorns, it was difficult to avert the strike because of limited coverage or the nature of farming sector. There is a need for innovation in order to deal with agricultural sector as it remains a complex economic industry... (Les Kettledas)

(iii). Unions are afraid to loose members, e.g. Marikana incident. It was an issue of competition...Maybe unions can take disciplinary action against their members... (Thembinkosi Mkhalipi).

References

1. Labour Law South Africa, December 2012
3. The State of the Nation address, the South African President, Mr J. Zuma, 14 February 2013
4. The Development Centre Joint Policy Dialogue enriched the debate on well-being by exploring how policies need to be reassessed and reshaped to build more cohesive societies, GDN-OECD, New Delhi, 15th Oct 2012
5. The Economist, October 20-26th 2012, p. 22
6. Recorded face to face interviews with DoL Senior managers
ANNEXURE A

Data Appendix

The following two supplementary tables contain data not included in the main report:

Table A1: Number of workers involved, working days lost and working hours lost by industry/sector, 2012

<table>
<thead>
<tr>
<th>Industry/Sector</th>
<th>Workers involved</th>
<th>Working days lost</th>
<th>Working hours lost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Electricity, gas and water supply</td>
<td>1 078</td>
<td>1 484</td>
<td>10 634</td>
</tr>
<tr>
<td>Electricity, gas, steam and hot water supply</td>
<td>875</td>
<td>875</td>
<td>5 762</td>
</tr>
<tr>
<td>Collection, purification and distribution of water</td>
<td>203</td>
<td>609</td>
<td>4 872</td>
</tr>
<tr>
<td>Wholesale and retail, repair of motor vehicles</td>
<td>4 170</td>
<td>13 210</td>
<td>115 032</td>
</tr>
<tr>
<td>Hotels and restaurants</td>
<td>458</td>
<td>2 453</td>
<td>18 924</td>
</tr>
<tr>
<td>Retail trade, except of motor vehicles and motor cycles; repair of personal household goods</td>
<td>160</td>
<td>513</td>
<td>4 118</td>
</tr>
<tr>
<td>Wholesale and commission trade, except of motor vehicles and motor cycles</td>
<td>3 552</td>
<td>10 244</td>
<td>91 990</td>
</tr>
<tr>
<td>Manufacturing</td>
<td>56 342</td>
<td>188 804</td>
<td>1 391 357.06</td>
</tr>
<tr>
<td>Basic metals, fabricated metal products, machinery and equipment</td>
<td>22 407</td>
<td>80 582</td>
<td>645 223.96</td>
</tr>
<tr>
<td>Coke, refined petroleum products and nuclear fuel</td>
<td>281</td>
<td>281</td>
<td>1 686</td>
</tr>
<tr>
<td>Electrical machinery and apparatus</td>
<td>5 872</td>
<td>5 872</td>
<td>43 340.5</td>
</tr>
<tr>
<td>Food products, beverages and tobacco products</td>
<td>7 059</td>
<td>31 211</td>
<td>256 084.6</td>
</tr>
<tr>
<td>Manufacture of furniture; manufacturing n.e.c; recycling</td>
<td>1 819</td>
<td>9 095</td>
<td>84 129</td>
</tr>
<tr>
<td>Other non-metallic mineral products</td>
<td>4 871</td>
<td>11 657</td>
<td>94 769.5</td>
</tr>
<tr>
<td>Transport equipment</td>
<td>13 191</td>
<td>48 521</td>
<td>252 901</td>
</tr>
<tr>
<td>Textiles, clothing and leather goods</td>
<td>706</td>
<td>706</td>
<td>6 190.5</td>
</tr>
<tr>
<td>Wood and products of wood and cork</td>
<td>136</td>
<td>879</td>
<td>7 032</td>
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<tr>
<td>Community, social and personal services</td>
<td>13 877</td>
<td>108 384</td>
<td>890 441</td>
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<tr>
<td>Education</td>
<td>3 816</td>
<td>65 200</td>
<td>539 408</td>
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<tr>
<td>Health and social work</td>
<td>150</td>
<td>150</td>
<td>300</td>
</tr>
<tr>
<td>Other community, social</td>
<td>260</td>
<td>1 648</td>
<td>13 001</td>
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<tr>
<td>Other services activities</td>
<td>198</td>
<td>2 772</td>
<td>22 176</td>
</tr>
<tr>
<td>Public administration and defense activities</td>
<td>6 751</td>
<td>10 465</td>
<td>88 784</td>
</tr>
<tr>
<td>Recruitment agency</td>
<td>818</td>
<td>9 236</td>
<td>76 748</td>
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<tr>
<td>Local Authority</td>
<td>1 243</td>
<td>10 883</td>
<td>87 064</td>
</tr>
<tr>
<td>Security Services</td>
<td>261</td>
<td>3 370</td>
<td>25 680</td>
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<tr>
<td>Post and Telecommunication</td>
<td>280</td>
<td>560</td>
<td>4 480</td>
</tr>
<tr>
<td>Recreation; cultural and sporting activities</td>
<td>100</td>
<td>4 100</td>
<td>32 800</td>
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<tr>
<td>Mining and quarrying</td>
<td>138 993</td>
<td>2 728 359</td>
<td>19 789 693.75</td>
</tr>
<tr>
<td>Coal and lignite</td>
<td>1 254</td>
<td>8 454</td>
<td>76 087</td>
</tr>
<tr>
<td>Metal ores, except gold and uranium</td>
<td>103 155</td>
<td>2 469 272</td>
<td>17 745 178.75</td>
</tr>
</tbody>
</table>
### Industry/Sector

<table>
<thead>
<tr>
<th>Industry/Sector</th>
<th>Workers involved</th>
<th>Working days lost</th>
<th>Working hours lost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gold and uranium ore</td>
<td>34 584</td>
<td>250 633</td>
<td>1 968 418</td>
</tr>
<tr>
<td>Transport, storage and communication</td>
<td><strong>12 900</strong></td>
<td><strong>135 186</strong></td>
<td>1 135 922.85</td>
</tr>
<tr>
<td>Land transport, transport via pipelines</td>
<td>6 479</td>
<td>86 900</td>
<td>770 689</td>
</tr>
<tr>
<td>Passenger transport</td>
<td>3 460</td>
<td>21 194</td>
<td>168 589</td>
</tr>
<tr>
<td>Public transport</td>
<td>1 212</td>
<td>2 536</td>
<td>19 426.85</td>
</tr>
<tr>
<td>Air transport</td>
<td>15</td>
<td>15</td>
<td>120</td>
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<tr>
<td>Supporting and auxiliary transport activities; activities of travel agencies</td>
<td>207</td>
<td>2 484</td>
<td>21 114</td>
</tr>
<tr>
<td>Post and telecommunications</td>
<td>1 527</td>
<td>22 057</td>
<td>155 984</td>
</tr>
<tr>
<td>Construction</td>
<td><strong>2 793</strong></td>
<td><strong>10 124</strong></td>
<td><strong>88 495</strong></td>
</tr>
<tr>
<td>Financial intermediation, insurance, real estate</td>
<td>160</td>
<td>964</td>
<td>7 687</td>
</tr>
<tr>
<td>Financial intermediation, except insurance and pension funding</td>
<td>81</td>
<td>885</td>
<td>7 080</td>
</tr>
<tr>
<td>Other business activities</td>
<td>16</td>
<td>16</td>
<td>134</td>
</tr>
<tr>
<td>Other services activities</td>
<td>63</td>
<td>63</td>
<td>473</td>
</tr>
<tr>
<td>Agriculture, hunting, forestry and fishing</td>
<td><strong>11078</strong></td>
<td><strong>123369</strong></td>
<td><strong>1106550</strong></td>
</tr>
<tr>
<td>Agriculture, hunting and related services</td>
<td>81 844</td>
<td>49 502</td>
<td>907 758</td>
</tr>
<tr>
<td>Fishing, operation of fish hatcheries and fish farms</td>
<td>714</td>
<td>714</td>
<td>5 337</td>
</tr>
<tr>
<td>Forestry, logging and related services</td>
<td>1 433</td>
<td>21 495</td>
<td>193 455</td>
</tr>
</tbody>
</table>

Source: Department of Labour, Strikes Statistics

### Table A2: Number of working days lost by nature of organization, 2012

<table>
<thead>
<tr>
<th>Nature of organization</th>
<th>Working days lost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Central Government General</td>
<td>4 178</td>
</tr>
<tr>
<td>Government Enterprise</td>
<td>11 218</td>
</tr>
<tr>
<td>Local Government General</td>
<td>17 936</td>
</tr>
<tr>
<td>Private Sector</td>
<td>3 224 726</td>
</tr>
<tr>
<td>Provincial Government General</td>
<td>168</td>
</tr>
</tbody>
</table>

Source: Department of Labour, Strikes Statistics
ANNEXURE B

B: Methodology for monitoring industrial action

B1. Introduction

The collection and analysis of industrial action statistics is guided by the guidelines and practices that have been developed by the International Labour Organization (ILO). The point of departure can be found in the ILO Resolution adopted by the Fourteenth International Conference of Labour Statisticians in January 1993, concerning statistics of strikes, lockouts and other action due to labour disputes. This resolution is accommodative rather than prescriptive in its approach. It states that; “Each country should aim at developing a comprehensive programme of statistics of strikes, lockouts and where relevant other action due to labour disputes in order to provide an adequate statistical base for the various users, taking into account the specific national needs and circumstances” [ILO Bulletin of Labour Statistics, 1993-2, Annex I, XI]. The Department has been provided with a legislated instrument [Form LRA 9.2] to collect data on labour disputes.

B2. Definitions

Section 213 of the Labour Relations Act, 1995 provides the following definitions:

A strike:

The partial or complete concerted refusal to work, or the retardation or obstruction of work, by persons who are or have been employed by the same employer or by different employers, for the purpose of remedying a grievance or resolving a dispute in respect of any matter of mutual interest between employer and worker, and every reference to work in this definition includes overtime work, whether it is voluntary or compulsory [s 213].

A lockout:

The exclusion by an employer of workers from the employer’s workplace, for the purpose of compelling the workers to accept a demand in respect of any matter of mutual interest between employer and worker, whether or not the employer breaches those workers’ contracts of employment in the course of or for the purpose of that exclusion.

A protest action:

The partial or complete concerted refusal to work, or the retardation or obstruction of work, for the purpose of promoting or defending the socio-economic interests of workers, but not for a purpose referred to in the definition of strike”.

Barker, F et al [1996] in “South African Labour Glossary” defined the following concepts as follows:

Picketing:

Action by employees or other persons to publicize the existence of a labour dispute by patrolling or standing outside or near the location where the dispute is taking place, usually with placards indicating the nature of the dispute. The aim of picketing might simply be to communicate the grievance to the public or it might be to persuade other employees in that workplace not to work and to take their side in the dispute, to deter scab labour, to persuade or pressurize customers not to enter the workplace, to disrupt deliveries or drum up public support.

A secondary strike:

A strike in support of a strike by other employees against their employer. The strikers have no issue with their employer, but that employer might be in a strong position (due to there being a close business relationship as either an important customer or supplier) to pressurize the employer who is in dispute.
Stay away action:

Industrial action by a group of employees in the form of absenting themselves from work without permission in support of some socio-political or socio-economic issue which does not relate to their employment situation.

Work stoppage:

A work stoppage is made up of a series of events, all relating to the same issue. Work stoppages have two characteristics, type and degree. The type of action is either a strike (action initiated by an employee), or a lockout (action initiated by an employer). The statutory definitions of strikes and lockouts are given in the Labour Relations Act, 1995.

Industrial action:

Action by unions, employees to pressurize the other party in the furtherance of an industrial dispute. It usually refers to strikes and lockouts but could also include picketing, product boycotts, sit-ins, go-slow strikes and other actions which disrupt the production process.

Work hours:

Those hours during which an employee is obliged to work.

B3. Coverage

Data collection attempts to cover the entire country, all economic activity and all sectors of the economy, legal and illegal industrial action. The system attempts to cover all industrial action due to labour disputes. The figures in this report are inclusive of all industrial actions which come to the knowledge of the Department, and the methods taken to secure information practically preclude probability of omissions of a serious nature. This is a painstaking exercise, and it is believed that the statistics indicates the conditions of labour disputes in the country with reasonable precision. Since LRA Form 9.2 has been redesigned, the Department is now in a position to cover employees both directly and indirectly involved in industrial actions separately, that is, those who participate directly or indirectly by stopping work. Workers absent from their normal place of work at the time of a strike or stoppage, for reasons such as sick-leave, vacation, business or personal reasons, whether authorized or unauthorized, are excluded from participation in industrial actions and are therefore not counted.

The LRA excludes independent contractors from the definition of employee. The LRA further excludes from the scope of coverage certain categories of workers, namely members of the National Defense Force, National Intelligence Agency and South African Secret Service. The coverage by the Department of industrial action, however, includes all of the above, provided they embarked on an industrial action in the period under consideration.

B4. Data collection

In addition to the legal obligation on employers to report industrial action, the Department has introduced an active media monitoring programme. Through this system, media information on industrial action is used to make contact with employers and to encourage voluntary compliance with reporting requirements. Telephone and telefax communication with affected employers ensure a reasonably accurate coverage of all industrial action.

The cooperation of private sector employers also speeds up the process of data collection. After completing the form, most employers send it to the Head Office of the Department. Some employers keep blank forms with them to complete and when an industrial action arises they voluntarily complete the forms and send them to the Department.

After receiving the form either directly from the employer or from the provincial office, Head Office staff members check the form to assess if the information provided is sufficient. If the information is insufficient, Department of Labour staff contact employers with the aim of getting relevant information, after which the data is captured on a database specifically designed for monitoring industrial action. The form is designed for workers who are both directly and indirectly involved in the industrial action, excluding all those who are on leave. The method of data collection and processing has remained the same ever since. The Department has to rely on the employers affected by disputes for detailed information on such matters as size, length, reason given for striking, etc., which it requires for its records as required by the 1995 Labour Relations Act.
No attempt is made to contact other parties to disputes, e.g., unions to verify the information that has been supplied by employers. Hence at this level, employers constitute a principal source of strikes data.

**B5. Calculations**

**Working days lost**

All calculations are made on the basis of information recorded on the LRA Form 9.2. After capturing the data, the loss of working days is calculated by multiplying the number of workers involved in each stoppage by the duration of the stoppage in days lost and adding the totals for all stoppages during the reference period. For example, if during the reference period there is one stoppage, involving 2 000 workers and lasting three days, working days lost would be computed as follows:

- 2 000 workers x 3 days = 6 000 working days lost

**Working hours lost**

Working hours lost is the aggregate number of working hours lost stemming from all work stoppages during the reference period. The statistic is calculated by multiplying the number of workers involved in each stoppage by the number of hours of the stoppage and summing the products thus obtained for all stoppages during the period. For example, if during the reference period there is one stoppage, involving 2 000 workers and lasting three hours, working hours lost would be computed as follows:

- 2 000 workers x 3 hours = 6 000 working hours lost

Estimated working time is computed by multiplying the employment for the period by the number of days typically worked by most employed workers during that period. In some cases, Saturdays (when customarily not worked), Sundays, and established holidays are excluded. It is also to determine the normal hours of work for groups of workers since LRA form 9.2 provides for this. An average eight hour day is used to represent the normal working day in the country.

**Time-loss ratio**

This is the number of working days lost due to industrial action per 1 000 employees. It is the standard method that has been used to convert working days lost into a strike rate that takes account of the size of total employment. This also enables comparisons to be made across industries and provinces that differ in employment size. For example, a country with 12 488 000 employees and loosing 1 662 000 working days will have a ratio of 133 arrived at as follows: 1 662 000/12 488 000*1 000

**Measurement**

The criterion used to identify a single strike, lockout, stoppage or protest action, is the industrial action in question. The Department of Labour has adopted the following International Labour Organization (ILO) recommendations used to denote one industrial action:

- a temporary work stoppage, due to one industrial action, occurring among workers in one establishment at one time

- temporary work stoppages, due to one industrial action, occurring among workers in several establishments at the same time

- temporary work stoppages, due to one industrial action, occurring among workers in one establishment at different times, in which the period between stoppages is not more than two months

- temporary work stoppages, due to one industrial action, occurring among workers in several establishments at different times, in which the period between stoppages is not more than two months.

While attempts to satisfy the ILO requirements are made, the instrument of data collection (LRA Form 9.2) served as the point of departure, in order to meet the specific needs of the Department.
RECORD OF STRIKE, LOCKOUT OR PROTEST ACTION

RECORD OF DETAILS OF STRIKE, LOCKOUT OR PROTEST ACTION TO BE KEPT BY EMPLOYER IN TERMS OF SECTION 205(3)(a)

1. EMPLOYER DETAILS

Name: ________________________________

Physical address: ________________________________

Province: ________________________________

Tel: __________________ Fax: __________________

E-mail address: ________________________________

Contact person: ________________________________

Sector/ nature of business: ________________________________

[eg food, mining, retail]

Are wages and working conditions normally determined in a bargaining or statutory council or similar industry – level body?

☒ Yes ☐ No

Please explain ________________________________

2. EMPLOYEE DETAILS

2.1 Number of workforce

<table>
<thead>
<tr>
<th>Total</th>
<th>Male</th>
<th>Female</th>
</tr>
</thead>
</table>

2.2 Number of ordinary days/shifts worked per week __________________

Number of ordinary hours worked per day/shift __________________

3. DETAILS OF THE ACTION

3.1 Nature of action

☒ Strike in company only

☒ Multi-employer strike

☒ Lockout

☒ Secondary strike

☒ Stayaway, protest action

☒ Picketing

☒ Other industrial action, please specify ________________________________
If the action was a strike did the employer lockout the strikers? (defensive lockout) __________________________________________

How was the industrial action resolved? __________________________________________

Was replacement labour used? __________________________________________

Duration

Began: _______________  (Date)  _______________  (Time)  

Ended: _______________  (Date)  _______________  (Time)  

Duration in workdays (or hours if relevant) __________________________________________

Employees

Number of employees directly\(^1\) involved __________________________________________

Number of female employees directly\(^1\) involved __________________________________________

Number of employees indirectly\(^2\) involved __________________________________________

Number of female employees indirectly\(^2\) involved __________________________________________

Total manhours lost __________________________________________  Total wages lost in Rands __________________________________________

Unions

Which unions were involved? (if more than one union, list main union first. If no union please indicate) __________________________________________

Compliance with the Act

Was the action in compliance with the Act? (eg procedural or unprocedural)

☐ Yes  ☐ No  ☐ Don’t know

If no, or don’t know, please explain __________________________________________

Reasons

Provide reasons for the action:

☐ Wages only  ☐ Refusal to bargain

☐ Bonuses and other compensation  ☐ Secondary action from another dispute

☐ Retrenchments/Dismissals  ☐ Grievances

☐ Working conditions  ☐ Disciplinary matters

☐ Socio-economic/political conditions  ☐ Organizational rights

☐ Any other reason, please specify __________________________________________

Signature of employer: __________________________________________  Date: __________________________________________

Compliance with the Act

\(^1\) Workers directly involve are those who went on strike or were locked out as a result of a dispute

\(^2\) Workers indirectly involve are those not working as a consequence of the initial stoppage of work because necessary supplies or orders are no longer available.