

Grass-hopping, go slows and strikes - definitions and differences

By [Bronwyn Marques](#)

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Lock-outs, strikes, picketing, work stoppages ... so many terms but what do they all mean? It would be understandable for employers to not always know what remedies they can seek after their employees take part in any of these as they all differ despite seeming so similar. Consulting with your experienced legal advisor is imperative; however, having an understanding of the terms and what you need advice on can make all the difference to finding your workable solution.



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Strikes are basically either a refusal to work or can also be 'go slows' or 'grasshopper' strikes. Go slows are literally what they are called, in that employees work slowly, thereby putting pressure on their employers to meet their demands. A grasshopper strike is when employees do intermittent strikes by coming to work, then striking, returning to work, and so on with the aim again being to make the employer meet their demands.

Work stoppages and strikes – aren't they the same?

No, they are not. The difference between the two is that in work stoppages, employees simply stop working without placing a demand on their employer, whereas in strikes, clear demands are made. This distinction is important because it affects how the employer can legally respond should either occur.

Any group of employees can strike; however, for protected strikes, employees need to comply with the requirements of the

Labour Relations Act, No 66 of 1995 (LRA). Employees do not have to be trade union members to participate in a protected strike but very importantly, employers must make a note of which employees participate as this can be vital if the employer approaches the court for remedy in regards to an unprotected strike. (Read our recent article which offers more clarity on this: [“Where is Wally?” – Identification issues in strike interdicts](#)). It is also important to note that employers may not dismiss employees for participating in a protected strike.



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Secondary strikes can also ensue and this is when other employees strike in support of a primary strike held by their fellow employees. However, secondary strikes are not protected unless they are in support of a protected primary strike. Secondary strikers also need to give employers seven days' notice and the strike must not disproportionately affect the employer compared to the primary strike.

What about salaries and wages during a strike?

Simply put, 'no work, no pay' applies during a strike. (Read more about [“No work, no pay”](#) when it comes to forced times of no work, such as was experienced in lockdown last year). However, employers have to make payments in kind for food, accommodation and other benefits such as pension, medical aid and so on.

Strike ultimatums

An employer may warn striking employees by issuing a warning that employees could be dismissed if they do not return to work. This is to allow the employee an opportunity to consider their participation in the strike and give them time to reflect on their conduct and return to work.



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Defensive and offensive lock-outs and finally picketing

A lock-out enables an employer to prevent certain employees from coming to work in order to encourage them to accept a demand made by the employer. There are two distinguishing types of lock-outs, the first being a defensive lock-out and the second, an offensive lock-out.

An offensive lock-out is initiated by an employer without a strike having been called and does not allow employees to be replaced by other workforce during the lock-out. A defensive lock-out is in response to a strike and allows the employer to employ replacement labour for the duration of the strike. Lock-outs can also be protected subject to certain requirements and it is important to consult with your employment attorney to establish what rights you have as an employer or employee.

Picketing in support of any protected strike or in opposition to any lockout endeavours to be non-violent and must take place subject to established picketing rules. Both the LRA and the Picketing Regulations which came into effect on 1 January 2019 must be taken into account. The picket may only be held in a public place outside the employer's premises or, with the permission of the employer, inside its premises. Employers may not take disciplinary action against an employee for participating in a lawful picket.



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Finding the right solution

From grass-hopping to picketing, there are fundamental rules in place for employers and employees to adhere to and while these descriptions serve to clarify some of the terms, employers should seek guidance from an experienced labour attorney or legal team which would be undoubtedly the perfect partner when navigating what can ultimately make or break your business.

ABOUT THE AUTHOR

Bronwyn Marques is the Director at Fluxmans

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