

## GENERAL NOTICES • ALGEMENE KENNISGEWINGS

### DEPARTMENT OF LABOUR

#### NOTICE 985 OF 2015

#### NOTICE OF SEPTEMBER 2015

PLEASE FIND SET OUT BELOW A LIST OF BARGAINING COUNCILS THAT HAVE BEEN ACCREDITED BY THE CCMA IN TERMS OF THE PROVISIONS OF THE LABOUR RELATIONS ACT 66 OF 1995 (AS AMENDED) FOR CONCILIATION AND/ OR ARBITRATION AND/ OR INQUIRY BY ARBITRATOR, WITH THE TERMS OF ACCREDITATION ATTACHED FOR THE PERIOD 01 SEPTEMBER 2015 TO THE 31 AUGUST 2017.

#### BARGAINING COUNCILS ACCREDITED TO CONDUCT CONCILIATIONS AND ARBITRATIONS, SUBJECT TO CONDITIONS WHERE APPLICABLE

Name of Council	Accredited Functions
<b><u>PRIVATE SECTOR BARGAINING COUNCILS</u></b>	
<b>Bargaining Council for the Contract Cleaning Services Industry (KwaZulu-Natal)</b>	To be accredited for conciliation and arbitration (including Inquiry by Arbitrator) from <b>01 October 2015</b> until <b>30 September 2016</b> on condition that section 198 – matters are allocated to only those part-time CCMA Commissioners who have been trained by the CCMA on section 198 and that monthly reports on equitable case allocation be provided.
<b>Building Industry Bargaining Council (Southern and Eastern Cape)</b>	To be accredited for conciliation and arbitration (including Inquiry by Arbitrator) from <b>01 October 2015</b> until <b>30 September 2016</b> for party-party disputes only on condition that section 198 – matters are allocated to only those part-time CCMA Commissioners who have been trained by the CCMA on section 198.

<b>Bargaining Council for the Civil Engineering Industry</b>	To be accredited for conciliation and arbitration (including Inquiry by Arbitrator) from <b>01 September 2015</b> until <b>31 August 2016</b> for the whole industry, on condition that an equitable case allocation takes place and is reported on and that section 198 – matters are allocated to only those part-time CCMA Commissioners and BC Panellists who have been trained by the CCMA on section 198.
<b>Bargaining Council for the Restaurant, Catering and Allied Trades Industry</b>	To be accredited for conciliation and arbitration (including Inquiry by Arbitrator) from <b>01 September 2015</b> until <b>31 August 2016</b> on condition that late awards are monitored on a monthly basis and that section 198 – matters are allocated to only those part-time CCMA Commissioners who have been trained by the CCMA on section 198.
<b>Building Industry Bargaining Council (Cape of Good Hope)</b>	To be accredited for conciliation and arbitration (including Inquiry by Arbitrator) from <b>01 September 2015</b> until <b>31 August 2016</b> on condition that equitable distribution of work and late awards are monitored on a monthly basis and that section 198 – matters are allocated to only those part-time CCMA Commissioners who have been trained by the CCMA on section 198.
<b><u>STATUTORY COUNCILS</u></b>	
<b>Statutory Council for the Printing, Newspaper and Packaging Industry of South Africa</b>	To be accredited for conciliation and arbitration (including Inquiry by Arbitrator) from <b>01 September 2015</b> until <b>31 August 2017</b> on condition that section 198 matters are allocated to only those part-time CCMA Commissioners who have been trained by the CCMA on section 198.

## **TERMS OF ACCREDITATION FOR CONCILIATION, ARBITRATION AND PRE- DISMISSAL ARBITRATION**

### **1. SCOPE OF ACCREDITATION:**

Herewith categories of disputes for which councils are eligible to apply for accreditation.

#### **COUNCILS ARE ACCREDITED TO PERFORM THE FOLLOWING DISPUTE RESOLUTIONS FUNCTIONS:**

Unfair dismissal disputes	- Section 191
Unfair Labour practice	- Section 191
Mutual Interest disputes	- Section 64
Interpretation of Collective Agreement disputes	- Section 24 (1)
Essential Services disputes	- Section 74
Inquiry by Arbitrator	- Section 188A
Regulation of non-standard work	- Section 198, 198A, 198B, 198C and 198D
Disputes about Interpretation and Application of Chapter 2	- Section 9

COUNCILS MAY NOT SEEK ACCREDITATION FOR THE FOLLOWING DISPUTE RESOLUTION FUNCTIONS REGARDING DISPUTES OVER THE FOLLOWING (see FOOTNOTE 11 of SECTION 51):

Organisational rights (sections 16, 21 and 22);

Collective Agreements where the agreement does not provide for a dispute resolution procedure or the procedure is inoperative or any party frustrates the resolution of disputes (section 24(2) to (5));

Agency shops and closed shops (section 24(6) and (7) and section 26(11);

Determinations made by the Minister in respect of proposals made by a Statutory Council (section 45);

The interpretation and application of Collective Agreements of a Council whose registration has been cancelled (section 61(5) to (8));

Demarcation of sectors and areas of Councils (section 62);

The Interpretation or application of Part C (Bargaining Councils), Part D (Bargaining Councils in the Public Service), Part E (Statutory Councils) and Part F (General Provisions concerning Councils) (Section 63);

Picketing (section 69(8) to 10);

Proposals which are the subject of joint-decision making in a workplace forum (section 86);

Disclosure of information to workplace forums (section 89);

Interpretation or Application of the provisions of Chapter 5 of the LRA which deals with workplace forums (section 94);

Enforcement of the Collective Agreements by Bargaining Councils (section 33A) and;

Enforcement of arbitration awards in terms of section 143. Only the Director of the CCMA, unless the power has been delegated to a CCMA Senior Commissioner may certify awards as if it were an order of the Labour Court;

Facilitating mass retrenchment disputes section 189(A).

**2. POWERS OF ACCREDITATION:**

Only those persons who are accredited by the CCMA, or are part-time Commissioners appointed by the Governing Body of the Commission in the terms of section 117 (2) of the Labour Relations Act, may perform the accreditation functions of the council for the Council.

The following provisions of the LRA, as amended apply to Councils accredited for conciliation and arbitration:

- (a) For the purpose of this paragraph any reference in Part C of Chapter VII of the LRA to:
  - “Commission” must be read as a reference to the Council;
  - “Commissioner” must be read as a reference to a conciliator or arbitrator appointed by the Council.
  - “Director” must be read as a reference to the Secretary of the Council.
- (b) The provisions of the sections contained in Part C of Chapter VII (section 127(6)) of the LRA shall apply to the Council in the performance of its accredited functions subject to the Council's Constitution and/or Collective Agreements. For the purpose of this sub-paragraph the following applies:
  - (i) The provisions of section 133 to 136;
  - (ii) The provisions of section 138 to 142, S142A, S143, S144 and S145;
  - (iii) The provisions of section 146 unless the Collective Agreement of the Council provides that the Arbitration Act, Act 42 of 1965 applies to any arbitration conducted under its accredited function and which Collective Agreement is binding on the parties to the disputes; and
  - (iv) The provisions of section 148.

**3. EXTENSION OF ACCREDITATION:**

Despite the expiry of the period of accreditation as stated in the Certificate of Accreditation, the Council may continue to perform its accredited functions in respect of any dispute referred to it during the period of accreditation, but not yet resolved by the time the period expires, until the dispute is resolved either through conciliation or arbitration.

**4. TRANSGRESSION OF TERMS OF ACCREDITATION:**

If the accredited Council fails to comply with the terms of accreditation, the Governing Body of the CCMA may revoke accreditation. In terms of section 130 of the LRA, as amended the Governing Body of the CCMA may withdraw accreditation after having given reasonable notice of withdrawal.

**5. AMENDMENT OF ACCREDITATION:**

An Accredited Council may apply to the Governing Body of the CCMA in terms of section 129 of the LRA to amend its accreditation.