

DEPARTMENT OF LABOUR

NOTICE 681 OF 2016

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 CONCILIATIONS AND/ OR ARBITRATIONS AND/ OR INQUIRY BY ARBITRATOR, WITH THE TERMS OF ACCREDITATION ATTACHED FOR THE PERIOD 01 SEPTEMBER 2016 TO THE 30 JUNE 2021, AS WELL AS THE AMENDMENT OF BARGAINING COUNCILS ACCREDITATION IN TERMS OF SECTION 129 OF THE LABOUR RELATIONS ACT 66 OF 1995.

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

Name of Council	Accredited Functions
PRIVATE SECTOR BARGAINING COUNCILS (Applied for conciliations and arbitrations)	
Bargaining Council for the Civil Engineering Industry	To be accredited for conciliations and arbitrations (which includes Inquiry by Arbitrator) from 01 September 2016 until 31 March 2020 on condition that sections 198 and 198A to 198C-matters are allocated to only those part-time Commissioners and Panelists who have been successfully trained by the CCMA on sections 198 and its insertions.

Building Industry Bargaining Council (Cape of Good Hope)	To be accredited for conciliations and arbitrations (which includes Inquiry by Arbitrator) from 01 September 2016 until 31 October 2018 on condition that the Collective Agreement is extended to non-parties, late awards are monitored on a monthly basis and that sections 198 and 198A to 198C-matters are allocated to only those part-time Commissioners who have been successfully trained by the CCMA on section 198 and its insertions.
Bargaining Council for the Restaurant, Catering and Allied Trades	To be accredited for conciliations and arbitrations (including Inquiry by Arbitrator) from 01 September 2016 until 31 May 2018 on condition that all performance efficiencies are monitored on a monthly basis and that sections 198 and 198A to 198C-matters are allocated to only those part-time Commissioners and Panellists who have been successfully trained by the CCMA on section 198 and its insertions.
Bargaining Council for the Contract Cleaning Services Industry (Kwa-Zulu Natal)	To be accredited for conciliations and arbitrations (including Inquiry by Arbitrator) from 01 October 2016 until 28 September 2017 on condition that monthly reports on all performance efficiencies be provided, the Collective Agreement is extended to non-parties, settlement rate is improved upon and that sections 198 and 198A to 198C-matters are allocated to only those part-time Commissioners who have been successfully trained by the CCMA on section 198 and its insertions.

Motor Industry Bargaining Council	To be accredited for conciliations and arbitrations (including Inquiry by Arbitrator) from 01 September 2016 until 31 March 2017 on condition that the Collective Agreement is extended to non-parties, late awards are monitored on a monthly basis and that sections 198 and 198A to 198C-matters are allocated to only those part-time Commissioners who have been successfully trained by the CCMA on section 198 and its insertions.
Building Industry Bargaining Council (Southern and Eastern Cape)	To be accredited for conciliations and arbitrations (including Inquiry by Arbitrator) for party-party disputes from 01 October 2016 until 30 September 2020 on condition that sections 198 and 198A to 198C-matters are allocated to only those part-time Commissioners who have been successfully trained by the CCMA on section 198 and its insertions.

THE AMENDMENT OF ACCREDITATION IN TERMS OF SECTION 129 OF THE LABOUR RELATIONS ACT 66 OF 1995, WITH THE SAME TERMS OF ACCREDITATION AS ATTACHED

National Bargaining Council for the Leather Industry of South Africa	To be accredited for conciliations only (including non-party disputes) from 01 June 2016 until 30 September 2021 on condition that the settlement rate is improved upon.
Public Health and Social Development Sectoral Bargaining Council	To be accredited for conciliations and arbitrations (which includes Inquiry by Arbitrator) from 01 June 2016 until 31 May 2019 on condition that sections 198 and 198A to 198C-matters are allocated to only those part-time Commissioners who have been successfully trained by the CCMA on sections 198 and its insertions.

TERMS OF ACCREDITATION FOR CONCILIATION, ARBITRATION AND INQUIRY BY ARBITRATOR

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
Temporary Employment Service	- 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.