

DEPARTMENT OF LABOUR

NOTICE 862 OF 2016

NOTICE OF NOVEMBER 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 NOVEMBER 2016 TO THE 31 DECEMBER 2018.

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

Name of Council	Accredited Functions
<u>PRIVATE SECTOR BARGAINING COUNCILS</u>	
Transnet Bargaining Council	To be accredited for conciliations and arbitrations (which includes Inquiry by Arbitrator) from 01 December 2016 until 30 November 2017 on condition that the settlement rate is improved, late awards are monitored on a monthly basis and 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.
National Bargaining Council for the Wood and Paper Sector	To be accredited for conciliations and arbitrations (including Inquiry by Arbitrator) for party-party disputes from 01 January 2017 until 31 December 2018 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.

Bargaining Council for the Laundry, Cleaning and Dyeing (Cape)	To be accredited for conciliations and arbitrations (including Inquiry by Arbitrator) from 01 January 2017 until 31 December 2018 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.
National Bargaining Council for the Hairdressing, Cosmetology, Beauty and Skincare Industry	To be accredited for conciliations and arbitrations (including Inquiry by Arbitrator) from 01 December 2016 until 31 December 2018 on condition that the Collective Agreement is extended to non-parties, 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 Food Retail, Restaurant, Catering and Allied Trades	To be accredited for conciliations and arbitrations (including Inquiry by Arbitrator) from 01 January 2017 until 31 December 2017 on condition that the Collective Agreement is extended to non-parties, settlement rate is improved 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 New Tyre Manufacturing Industry	To be accredited for conciliations and arbitrations (including Inquiry by Arbitrator) for party-party disputes from 01 November 2016 until 31 October 2017 on condition that all performance efficiencies are adhered to and that all 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 (North and West Boland)	To be accredited for conciliations only from 01 January 2016 until 31 December 2017 on condition that the Collective Agreement is extended to non-parties.
National Bargaining Council for the Electrical Industry of South Africa	To be accredited for conciliations only from 01 December 2016 until 30 November 2017 on condition that the Collective Agreement is extended to non-parties, and that the settlement rate is improved upon.
<u>PUBLIC SECTOR BARGAINING COUNCILS</u>	
General Public Service Sectoral Bargaining Council	To be accredited for conciliations and arbitrations (including Inquiry by Arbitrator) from 01 December 2016 until 30 June 2017 on condition that all performance efficiencies are monitored on a monthly basis and that all 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.
South African Local Government Bargaining Council	To be accredited for conciliations and arbitrations (including Inquiry by Arbitrator) for party-party disputes from 01 December 2016 until 31 November 2017 on condition that all performance efficiencies, specifically late awards and turnaround times for arbitrations are monitored and that all 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.

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.