

## NEWS FLASH

Directly based upon, amongst others, the expanded jurisdiction of the CCMA to incorporate issues previously solely addressed by the Department of Labour, as well as some refinement of the Rules, effective 1 January 2019, amended Rules for the Conduct of Proceedings before the CCMA came into being.

Some pertinent issues flowing from such amendments are highlighted:

### **RULE 14A: EXTENSION OF THE CONCILIATION PERIOD**

- The 30-day period provided for in terms of section 135(2A) of the LRA may be extended upon the request of a party before the expiry of the period;
- Within 2 days of the request to extend, the Director of the CCMA must advise the parties of the outcome of the request.

### **RULE 17: CON-ARB PROCEEDINGS**

- An objection to the con/arb process cannot be made where the dispute concerns:
  - Dismissal relating to probation;

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- A Compliance Order referred in terms of section 69(5) of the BCEA;
- A claim for the failure to pay monies owing referred in terms of section 73A of the BCEA.

#### **RULE 25: REPRESENTATION BEFORE THE COMMISSION**

- Rule 25(1)(c) now includes reference to arbitrations not only based upon the fairness of a dismissal, but also disputes referred in terms of section 69(5), 73 and 73A of the BCEA;
- Rule 25(1)(d) and (e) provides for the representation of parties in s189A(3) facilitations.

#### **RULE 31: HOW TO BRING AN APPLICATION**

- Although largely unchanged from the 2015-updated rules, it is important to remember the relevant times periods applicable to applications for condonation, joinder, substitution, variation, rescission, postponement, jurisdictional issues or any other preliminary or interlocutory:
  - An application, supported by a founding affidavit, must be brought at least 14 days prior to the hearing date;
  - An opposing or answering affidavit (i.e. in response to the founding affidavit) must be filed within 5 days after the application has been received;
  - A replying affidavit may be filed within 3 days of receipt of the answering affidavit.

#### **RULE 31A: APPLYING FOR PICKETING RULES**

- The CCMA must set-down an application for the establishment of picketing rules within 2 days of receipt of the application.

#### **RULE 31B: ENFORCEMENT OF COMPLIANCE ORDERS**

- The new rules applies to any application in terms of sections 68(3) and 73(1) of the BCEA;

- The rule prescribed the manner in which such applications are to be brought, as well as how an employer may object to the application;
- Subrule 9 provides that the CCMA may determine such an application on the documents received, or enrol the matter for hearing.

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