

# **THE ALTERNATIVE DISPUTE RESOLUTION INITIATIVE BUSINESS STATEMENT**

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# WE DELIVER FAIRNESS

**In addition to the discrete interests of business and labour in finalising disputes, it is essential for labour peace, social justice and economic development that labour disputes are resolved efficiently.**

Business and labour have identified the need for an alternative body to resolve labour disputes quickly and cost-effectively.

Following a consultative process with business and labour, the Alternative Dispute Resolution Initiative has been established as an alternative to existing statutory processes.

The Alternative Dispute Resolution Initiative offers a variety of dispute resolution and prevention processes conducted by hand-picked, highly recommended panelists who are all experienced labour dispute resolution practitioners.

By agreement, all processes are conducted according to and in terms of the LRA and other applicable employment law.

The Alternative Dispute Resolution Initiative conducts the following processes:

- mediation by consent of parties
- facilitation, in particular retrenchment processes, in terms of section 189A of the LRA and other collective bargaining matters
- arbitration in terms of the Arbitration Act
- dispute prevention measures
- training on employment law and dispute resolution processes

The parties agree to be bound by the outcome, whether it is a settlement agreement or a final and binding arbitration award. This means that the dispute cannot subsequently be referred to the CCMA or the Labour Court for adjudication.

Processes are private and confidential and the parties have the opportunity to agree on a panelist. Panelists are bound by the ADR Initiative code of conduct which is based on the CCMA's code of conduct.



## HOW DOES THE PROCESS START?

The trade union/employee party and employers' organisation/employer party agree that the dispute will be resolved under the auspices of the Alternative Dispute Resolution Initiative.

## HOW DOES IT WORK?

The parties jointly sign an agreement to the process being conducted by the ADR Initiative. They sign the terms of reference in which they specifically agree that the panelist must apply the LRA and all other employment law, including the codes of good practice, facilitation regulations, arbitration guidelines and the CCMA Rules, where applicable. The parties agree to comply with the outcome whether it is a settlement agreement or a final and binding arbitration award. This means that the matter cannot subsequently be referred to the CCMA or the Labour Court for adjudication.

For unfair dismissal disputes, the normal process is med-arb. This is a process where the matter is set down for arbitration in terms of the Arbitration Act, but the panelist will first attempt to resolve the dispute through mediation. A dispute may be resolved through mediation or settled by the parties at any stage prior to the award being issued.

## WHO CHOOSES THE PANELIST?

The parties may agree on an arbitrator and ADR Initiative will accommodate the preference if possible. Otherwise, ADR Initiative will identify and appoint a panelist.

## WHERE WILL THE CASE BE HEARD?

The preference is that hearings take place online. However, parties may agree to conduct processes at the employer's premises or an agreed venue.

## WHO WILL PAY AND HOW MUCH?

The employer pays a full-day rate of R5500 or a half-day rate of R3000 to the ADR Initiative which in turn contracts the panelist. This includes the panelist's travel costs up to a 120km radius from the panelist's home. Travel costs out of this range will be agreed upon.

For employees earning above the statutory threshold (set in the BCEA and currently R205 433.30 per annum), the daily rate will be determined based on a sliding scale according to the employee's remuneration and the parties will share dispute resolution costs.



# **INTERESTED?**

**Get in touch at  
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