

NATIONAL ASSOCIATION OF BARGAINING COUNCILS

Editorial

Welcome to the first issue of the NABC Newsletter for 2019, a publication that includes information highlighting important information relevant to Bargaining Councils.

In this edition we have included the following information; NABC Strategic Planning Session, Derivative Misconduct, Financial Management Training, CCMA matters & Bidding farewell.

Please feel free to share this newsletter within your organisations. We hope that you enjoy reading each issue of our newsletter. If you have any suggestions please forward it to nabc@pscbc.org.za. Please see attached our membership form should you want to become a member of the NABC.

NABC STRATEGIC PLANNING SESSION

The NABC held a Strategic Planning session at the Cradle of Humankind in Gauteng on the 25 & 26 April 2019.

During the session, the NABC EXCO members deliberated over the current state of the NABC and mapped the direction to take the organisation forward. An in debt SWOT & PESTEL analysis was conducted in order to evaluate the standing of the NABC both from an internal and external perspective. The new vision and mission for the NABC was determined:

Vision, Uniting Bargaining Councils and **Mission**, to enhance bargaining councils by ensuring stakeholder presence and excellent service offerings through broad engagement and collaboration.

The process proved to be extremely beneficial as it provided clarity regarding the operation & future endeavours for the NABC. The NABC Chairperson was appreciative for this initiative and thanked all EXCO members for engaging in an activity which will definitely result in the NABC providing quality service offerings to its members.





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DERIVATIVE MISCONDUCT

In terms of the common law an employee owes a legal duty to his or her employer to act in good faith. An employee who is aware of the conduct or misconduct by fellow employee but fails to inform the employer acts contrary to his or her obligation towards the employer.

Duty to act in good faith towards the employer is most often an implied term of the contract of employment. In terms of this duty, the employee undertakes to serve the employer honestly and faithfully and to be loyal. An employee who breach this duty may be dismissed.

In the old case, *Chauke and Others v Lee Services Centre* 1998 ILJ 1441 (LAC) derivative misconduct was defined as the situation where employees possess information that would enable the employer to identify wrongdoers and that those employees who fail to come forward when asked to do so, violate the trust upon which employment relationship is founded.

In *National Union of Metal workers of SA obo Khanyile and Others v Dunlop*, [2016 10 BLLR 1024 (LC)] employer dismissed a category of employees for derivative misconduct because of their failure to provide the employer with information concerning identities of the perpetrators of violent acts during the strike. At arbitration the arbitrator reinstated employees because the employer failed to positively place each employee at the scene where the misconduct took place.

Labour Court reviewed the decision of the arbitrator and held that sufficient evidence on the probabilities placed dismissed employees on the scene of the misconduct and drew inferences that on the probabilities the employees had knowledge of the perpetrators of the acts of violence. On appeal to the Labour Appeal Court, the LAC agreed with the Labour Court and held that the arbitrator failed to give consideration to the fact that such presence and knowledge was capable of proof by means of indirect evidence or by inference. The court held that indirect evidence in the form of inference drawn from the whole body of evidence was a necessary category of evidence to assess. It further held that the inference can be drawn that each one of the employee had knowledge of the misconduct as described. LAC dismissed the appeal.

In *Western Platinum Refinery LTD v Hlebela* JA32/ 2014 3 June 2015 it was held that the employer must still adduce evidence to show that the undisclosed knowledge is actual, not imputed or constructive knowledge and that failure to disclose must be deliberate.

Caution must however, be exercised when applying derivative misconduct rule. The rule must be resorted to when all other forms of identifying the perpetrators have failed and the employer is left with no other choice in order to deal with the perpetrators.



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FINANCIAL MANAGEMENT TRAINING

The NABC EXCO members identified a need to conduct Financial Management Training amongst the various member Bargaining Councils.

On 15 March 2019 an invitation was extended to all NABC members to partake in a finance management course (NQF level 5) - duration of 5 days.

• TRAINING OUTCOMES

By the end of the training programme and upon satisfactory completion of assessment tasks participants will be able to;

- * Demonstrate an understanding of the key concepts of managerial finance.
- * Interpret financial statements.
- * Draft financial forecasts.
- * Draft budgets according to operational plans of the unit.
- * Supervise the financial management against given requirements
- * Demonstrate an understanding of accounting principles and reporting requirements & nature of functions
- * Use accounting techniques and approaches to process financial information
- * Apply end of period accounting procedures in the preparation of financial statements

- * Apply procedures necessary for control over cash transactions and balances
- * Utilise procedures for reporting and recording accounts receivables
- * Utilise procedures for recording and reporting on liabilities

• BARGAINING COUNCILS PARTICIPATING IN THE TRAINING

- * Bargaining Council for the Restaurant, Catering and Allied Trades (BCRCAT)
- * Public Service Co-ordinating Bargaining Council (PSCBC)
- * National Bargaining Council for Sugar (NBCS)
- * Bargaining Council for the Food Retail, Restaurant, Catering & Allied Trades (BCFOOD)
- * National Bargaining Council for the Chemical Industry (NBCCI)
- * Furniture Bargaining Council (furnbed)
- * General Public Service Sector Bargaining Council (GPSSBC)

The NABC firmly believes that this course will prove beneficial to each Council. We look forward to embarking on this training initiative.

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HOW COMPANIES CAN HELP EMPLOYEES AND THEIR FAMILIES GAIN AN EDUCATION – BIZ COMMUNITY

For South African companies who have the available resources, there is a great initiative from the government which will allow companies to help employees and their families gain an education. Education should never be limited to just the rich and powerful. We need to empower a whole generation by giving them the education they need to better their lives.

How company-sponsored bursaries work

For a bursary or scholarship to qualify as a bona-fide bursary or scholarship (which means it will be tax exempt for the employee), it needs to meet the following requirements:

1. Only employees earning a gross annual salary of less than R600,000 will qualify.
2. The bursary or scholarship agreement should state that should the student fail to complete their studies, the bursary amount will be repayable by the employee.
3. Bursaries and scholarships for NQF levels 1-4 (grades R – 12) are limited to R20,000 per year and for NQF levels 5-10 (including university education) it is limited to R60,000 per year.

Another great thing is that these bursaries are not limited to one per family. If for example an employee has three school-going children, they can apply for three bursaries of R20,000 each, providing that this additional R60,000 does not push their annual salary over the R600,000 limit to comply with the rules.

How companies should select employees for bursaries and scholarships

Employers should have a robust policy in place before

implementing company-sponsored bursaries. The policy must specify the requirements that should be met and should also be based on merit and need.

Education as a human right means that governments have an obligation to protect, respect and fulfil the right to education. This initiative is a gesture from the government that it is willing to honour its statement that education is a basic human right.

Implementation of company-sponsored bursaries and scholarships

The changes resulting from the bursaries and scholarships will have to be internally driven.

Consultants can be used during the first implementation phase but after that payroll and HR departments should take the responsibility to ensure that employees' packages are correctly calculated and to have discussions with all qualifying employees where all the details are explained, and they are shown detailed examples to ensure they fully comprehend the benefits.

Leaving a legacy

Companies should also see this initiative as a way of investing in their own future. If a company helps employees by providing them and their families with an education, they are cultivating loyal employees.

They are also creating a legacy where the employees and their children will now have a proper education and can work for and help improve the company.



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CONGRATULATIONS – MR TOM MKHWANAZI

The NABC bids farewell to Mr Tom Mkhwanazi who served as the Deputy Chairperson of the NABC for 2 consecutive terms. Mr Mkhwanazi has been newly elected as the CEO of the W&RSETA. We confident that his exemplary leadership skills will make a great contribution towards the success of the organisation. We would like to congratulate Mr Mkhwanazi on achieving this esteemed position and would like to extend our appreciation and are forever grateful for his support.



NABC MEMBERS

Amanzi Bargaining Council
Bargaining Council for the Civil Engineering Industry
Bargaining Council for the Food Retail, Restaurant, Catering & Allied Trades
Bargaining Council for the Restaurant, Catering and Allied Trades
Bargaining Council for the Meat Trade, Gauteng
Furniture Bargaining Council
General Public Service Sectoral Bargaining Council
Metal and Engineering Industries Bargaining Council
Motor Industry Bargaining Council
National Bargaining Council for Clothing Manufacturing Industry
National Bargaining Council for the Chemical Industry
National Bargaining Council of the Leather Industry of South Africa
National Bargaining Council for the Hairdressing, Cosmetology, Beauty and Skincare Industry
National Bargaining Council for Sugar
Public Service Co-ordinating Bargaining Council
Transnet Bargaining Council



AMANZI BARGAINING COUNCIL
Supporting effective delivery of water services



Bargaining Council for the
Civil Engineering Industry



BARGAINING COUNCIL FOR THE FOOD RETAIL, RESTAURANT, CATERING & ALLIED TRADES



GENERAL PUBLIC SERVICE
SECTOR BARGAINING COUNCIL



Metal and Engineering Industries
Bargaining Council



Good to Great Together



National Bargaining Council of the
Leather Industry of South Africa



NATIONAL BARGAINING COUNCIL FOR THE
SUGAR MANUFACTURING AND REFINING INDUSTRY



PUBLIC SERVICE CO-ORDINATING BARGAINING COUNCIL



Transnet
Beddings-
raad



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BECOME A MEMBER OF NABC- MEMBERSHIP FORM

Organisation and Job Title		
Title		
Initials, Surname		
First name		
Physical Address		
City or Town		
Province/ Country	Postal code	
Email		
Contact numbers	Work:	Fax:
Cell number		
Previous NABC Member?	<input type="checkbox"/> <input type="checkbox"/>	
Category of membership and fees	<input type="checkbox"/> Mega- R 12,100.00 over 100,000 members <input type="checkbox"/> Large – R 9,020.00 between 50,000-100,000 members <input type="checkbox"/> Medium – R 6,050.00 between 10,000 – 50,000 members <input type="checkbox"/> Small – R 3,025.00 up to 10,000 members	
Method of payment	Direct deposit into Standard Bank, Hatfield (011545), current account number: 3703 583 33 <i>Please print the name of your Bargaining Council as deposit reference and email the deposit slip to us</i>	

Contact us – Tel: 012 644 8100 or email: nabc@pscbc.org.za

Editorial Committee: Sharlaine Oodit, Frikkie De Bruin, Oomang Parag & Shana Trail