

WORKPLACE FORUMS

WHAT IS A WORKPLACE FORUM

The workplace forum is designed to provide non-adversarial opportunities for employers and employees to cooperate by means of consultation and joint decision-making on a range of workplace related issues excluding wage negotiations.

A workplace forum thus provides an opportunity for worker participation, which refers to:

- Consultation of employees or employee representatives on work related matters;
- Involvement of the employer and employee representatives in joint decision-making (co-determination) with management;
- The disclosure of information for purposes of consultation or joint decision-making;

Or a combination of all three.

WHAT ARE THE FOUR GENERAL FUNCTIONS OF A WORKPLACE FORUM

Section 79 of the LRA sets out four "general functions" of a workplace forum as follows:

- To seek to promote the interests of all employees in the workplace whether or not they are trade union members;
- To seek to enhance efficiency in the workplace;
- To be consulted by the employer, with a view to reaching consensus, about the matters referred to in section 84; and
- To participate in joint decision-making about the matters referred to in s86.

WHAT DISTINGUISHES A WORKPLACE FORUM FROM A TRADE UNION

- A trade union is a juristic body whereas a workplace forum is not;
- Only a representative trade union can call for the establishment of a workplace forum. In terms of s78(b) read with s80, a representative trade union is a trade union, or two or more

unions acting together, that represents the majority of employees;

- A trade union negotiates wages and wage related issues whereas a workplace forum does not deal with wages;
- A workplace forum cannot embark on industrial action whereas a trade union can;
- Non-union members can belong to a workplace forum.

WHAT ARE THE REQUIREMENTS FOR THE ESTABLISHMENT OF A WORKPLACE FORUM

- The employer must employ 100 or more workers in terms of s 80(1);
- Only a representative trade union may apply to the CCMA for the establishment of a workplace forum. In terms of s 78(b) read with s 80, a representative trade union is a trade union, or two or more unions acting together, that represents the majority of employees.
- The representative trade union must ensure that a copy of its application is served on the employer;
- No other functioning workplace;
- A trade union, which is recognised by an employer in terms of a collective agreement, may apply to the CCMA for the establishment of a workplace forum. This is known as a "trade union based workplace forum".

ON WHAT ISSUES MUST AN EMPLOYER CONSULT A WORKPLACE FORUM

S84(1) states that a workplace forum is entitled to be consulted by the employer about proposals relating to any of the following matters provided they are not already regulated by a collective agreement:

- Restructuring the workplace, including the introduction of new technology and new work methods;
- Changes in the organisation of work;
- Partial or total plant closures;
- Mergers and transfers of ownership in so far as they have an impact on the employees;
- The retrenchment of employees;

- Exemptions from any collective agreement or law;
- Job grading;
- Criteria for merit increases or the payment of discretionary bonuses;
- Education and training;
- Product development plans; and
- Export promotion.

NOTE - that a collective agreement supersedes any agreement reached between a workplace forum and an employer.

DISPUTES ABOUT WORKPLACE FORUMS

Any party to a dispute about the interpretation or application of a workplace forum constitution may refer a dispute to the CCMA in writing if that party is:

- One of more employees employed in the workplace;
- A registered trade union with members employed in the workplace;
- The representative trade union; or
- The employer.

The party who refers the dispute to the CCMA must satisfy the Commission that a copy of the referral has been served on all the other parties to the dispute. The CCMA must attempt to resolve the dispute through conciliation. If the dispute remains unresolved, any party to the dispute may request that the dispute be resolved through arbitration.

RELEVANT LEGISLATION

Labour Relations Act, 1995, as amended – Chapter V