

th gratitude and appreciation to all our sponsors



## IN THIS ISSUE



### MANDELA DAY

• 8 •



### NAVIGATING THE CCMA'S RULE 24: A PRACTICAL GUIDE TO EFFECTIVE DISPUTE RESOLUTION

• 7 •



### ENFORCEMENT OF ARBITRATION AWARDS IN ACCORDANCE WITH SECTION 143 OF THE LABOUR RELATIONS ACT (LRA) NO. 66 OF 1995.

FROM THE DESK OF  
NOLUFEFE NYAMEZELE

## ACTING EXECUTIVE GOVERNANCE & STRATEGY

### *Celebrating Milestones and Empowering Change*

Dear valued Readers,

Welcome to the second quarter edition of the CCMA's InTouch, where we celebrate our journey of Empowering Excellence. This theme encapsulates our unwavering commitment to delivering the highest standards in everything we do. As we reflect on our journey towards a more equitable and just society, we celebrate significant milestones, including Justice Mandisa Maya's historic appointment as South Africa's first female Chief Justice.

We are proud to announce that, for the third consecutive year, the CCMA has managed to achieve yet another clean audit opinion. This achievement reinforces our reputation as a trusted and accountable organisation, ensuring we continue to make a positive impact in the labour market.

Our clean audit results are a testament to our dedication to transparency, accountability, and ethical practices.

At the heart of this edition is a tribute to Building a Legacy, inspired by the values of integrity, justice, and community service exemplified by former late statesman - Nelson Mandela. We align our values and initiatives with his principles, demonstrating our commitment to social responsibility through initiatives like *Ladles of Love* and various provincial programmes. All these efforts reflect our dedication to creating a better future for all.

In celebration of Women's Month, we share inspiring stories from trailblazing women leaders, including our own CCMA female Commissioner's remarkable journey.



Our *#EmpowerHer* Campaign highlights mentorship and support as key to unlocking women's potential.

We also celebrate the achievements of our colleagues who embody the spirit of excellence. It is worth mentioning that *outstanding service* is the heartbeat of the CCMA, and recognising the contributions of our dedicated employees is vital to fostering this culture. We will be hosting our Service Excellence and Employee Recognition Awards to celebrate the CCMA's driving force.

As we navigate the complexities of the labour market, we remain committed to change management initiatives that drive growth, empower employees, and prepare us for future transitions. Read more on this to understand the CCMA's Major and Minor Changes.

As always, we encourage you to contribute and share your story ideas with us via email – [Communications@ccma.org.za](mailto:Communications@ccma.org.za); until then...

Please do enjoy reading this issue of CCMA InTouch.



## PREPARING FOR A CCMA HEARING: TIPS AND ADVICE

Navigating the complexities of a CCMA hearing can be a daunting task, especially for those who are new to the process. With the stakes high and the outcome uncertain, it is essential to be prepared. Whether you are an employer or employee, a well-prepared case can make all the difference in achieving a favorable outcome. In this article, we'll share valuable tips and advice for you to peruse; covering everything from gathering evidence and preparing witnesses and how to respond to questions posed in the hearing. By following these expert guidelines, you will be empowered to navigate the process with confidence increasing your chances of success:

### Tip 1: Understand the Process

- Familiarise yourself with the CCMA's rules and procedures.
- Familiarize yourself with the relevant case law and legislation applicable to your matter.
- Familiarize yourself with preliminary issues which may emanate from your dispute.
- Familiarize yourself with the notice of set down to know when, where and what time the hearing will be held.
- Know the difference between an in limine, conciliation, con/arb and arbitration hearing.
- Know the difference between a rescission and review process.
- Familiarize yourself with the condonation process where a dispute has been referred late to the CCMA.
- Know your dispute prior to gathering evidence and selecting witnesses.
- Be aware of the processes, timeframes and deadlines for filing documents and attending hearings.

### Tip 2: Prepare Your Case (Arbitration)

- Gather all relevant evidence and documents, including contracts, policies, guidelines, payslips, emails, witness statements and any other relevant information.
- Organize your evidence and prepare a clear, concise presentation.
- Paginate your documents orderly.
- Make a copy of the documents that you wish to submit as part of your evidence for the opposing party, your witness(es) and the Commissioner.

- Ensure that documents are timeously served on the opposing party to avoid any possible delay of the hearing.
- Identify key witnesses and ensure they are available to testify.
  - If you are the employee, ensure that you secure witnesses by requesting from the employer those who are still employed by the employer; or
  - where necessary, you may request that a subpoena be issued to confirm attendance of your witnesses. Such a subpoena must be served on the witness at least seven days prior to the arbitration hearing.
- Prepare the questions that you or the representative intend to ask your witnesses.
- You may prepare a resource to record if need be. However, the CCMA recording will remain the official recording of the arbitration hearing.

### Tip 3: Know Your Rights and Obligations

Both employees and employers must know and understand the following rights and obligations enshrined in different pieces of legislation and the Constitution of the Republic of South Africa, 1996.

- The right to fair labour practices.
- The right to fair and equal treatment.
- The right to cross-examine witnesses.
- The right to give relevant evidence (the Commissioner may only decide based on the facts / evidence placed before that Commissioner).
- The right to be represented in terms of Rule 25 of the Rules for the Conduct of Proceedings Before the CCMA.
- The right to a safe environment.
- The right to be treated with respect and dignity.
- The right to decide in conciliation whether you agree to the terms of a settlement agreement.
- The right to review an award or ruling at the Labour Court in terms of the grounds for review as set out in the Labour Relations Act.

### Tip 4: Be Respectful and Professional

- Consider the following values of the CCMA which apply when appearing for CCMA hearings:
  - Respect
  - Excellence
  - Accountability
  - Diversity
  - Integrity
  - Transparency.

- Be calm and respectful when presenting your case.
- Avoid aggressive and confrontational behaviour.
- Treat the Commissioner, opposing party and witnesses with respect and dignity.
- Failure to appear for a hearing in terms of a subpoena or failure to treat others in the hearing room with respect and dignity may lead to a party being found to be in contempt of the Commission.
- Be prepared to compromise and negotiate a reasonable settlement in conciliation proceedings to avoid strained relationships.

#### Tip 5: Seek Representation

In terms of CCMA Rule 25(1)(a), only the following persons may represent parties in conciliation:

- The parties themselves.
- A director or employee of a party.
- A member of a close corporation.
- Any member, office-bearer or official of a party's registered trade union or registered employer's organisation.
- Any member, office-bearer or official of a registered federation of trade unions or registered federation of employers' organisations.
- DEL employee or official if a matter concerns the Department of Employment and Labour.

Be aware of the CCMA's rules regarding representation and ensure compliance.

- Representation in CCMA hearings is regulated by Rule 25 of the CCMA Rules.
- Legal practitioner and candidate attorneys are permitted to represent in all preliminary hearings, unfair labour practice disputes, dismissals other than those based on conduct or capacity, s189A large-scale facilitations, and matters arising from the Basic Conditions of Employment Act other than those relating to section 69(5), 73, and 73A of that Act.

Where there is no direct right to legal representation at arbitration hearings, legal representation may be permitted on application or agreement by parties as endorsed by the appointed Commissioner.

- The following factors are taken into consideration when determining an application for legal representation:
    - The nature of the questions of law raised by the dispute;
    - The complexity of the dispute;
    - The public interest; and
    - The comparative ability of the opposing parties or their representatives to deal with the arbitration of the dispute.
  - Ensure compliance with Rule 31 of the CCMA Rules read with Rule 25 of the CCMA Rules where the need arises to apply for legal representation or to be represented by a person other than those provided for in Rule 25.
  - Failure to comply with the above Rule may delay the hearing or the hearing may continue without any representation.
- Ensure that where you do intend to utilise the services of a legal representative or candidate attorney, that this person is registered with the Legal Practice Council.

#### Best practices from the Labour Relations Act:

- The following provisions regulate the conduct of CCMA conciliation and arbitration hearings and the powers of the Commissioner when resolving disputes:
  - Section 135: Ensure fairness and impartiality in all proceedings.
  - Section 138: Be aware of the CCMA's general powers in the conducting of arbitration proceedings and issuing awards.
  - Section 142: Understand the importance of conciliation and mediation in resolving disputes.

#### Additional tips:

- Arrive early and be prepared to spend the full day at the hearing (arbitration).
- Comply with the CCMA Rules in case of a request for postponement.
- In case of objection to con/arb, ensure compliance.
- Be aware of a pre-conciliation process that may be held either in person or telephonically to attempt to resolve the matter prior to a formal hearing.
- Be aware that a conciliation hearing may be held telephonically.
- If your claim relates to money that is owed to you by your employer, ensure that you bring a copy of your payslip and any other information that will assist the Commissioner in the dispute.
- Bring multiple copies of all documents and evidence (arbitration).
- Take notes during the hearing to reference later (arbitration).

**Ms Kagiso Nthite**

**CCMA Senior Commissioner**

# YOUR ROLE IN DRIVING SUCCESSFUL CHANGE: UNDERSTANDING MAJOR AND MINOR CHANGES IN THE CCMA

## Your Role in Driving Successful Change: Understanding Major and Minor Changes in the CCMA

In our recent article, we explored what change management is and why it is essential in organisations. As we continue to navigate various change initiatives within the CCMA, it is crucial to understand the importance of the role each employee plays in these initiatives.

In this article we clarify employees' responsibilities during change management processes and initiatives as well as the differences between major and minor changes in the public sector.

This article will clarify the responsibilities expected of employees in change projects and explain the difference between major and minor changes in the CCMA.

## What is Your Role in Change Project?

Every employee, regardless of their position, has a vital role in ensuring the success of change initiatives. Whether you are a front-line staff member, a manager, or part of the executive, your involvement, attitude, and actions are crucial to achieving the desired outcomes. Here's what you can do:

### 1. Stay Informed:

- Keep yourself updated on the latest changes, announcements, and timelines related to the current projects. Regularly check internal communication channels such as emails, or team meetings for updates.

### 2. Be Open and Adaptable:

- Embrace the changes with a positive attitude and be willing to adapt. Understand that change is necessary for growth and improvement. Share your concerns, but also look for the benefits and opportunities these changes bring.

### 3. Participate Actively:

- Engage in training sessions, workshops, and meetings related to the change initiatives. Provide feedback, ask questions, and share your insights. Your input is valuable and can help refine the process.

### 4. Support Your Colleagues:

- Be a source of support and encouragement to your colleagues. Change can be challenging for some, so offer help, share information, and promote a collaborative environment where everyone feels included and empowered.

### 5. Follow New Procedures:

- Ensure you understand and implement any new procedures or policies introduced. Be diligent in adhering to new guidelines and seek clarification from your managers if needed.

### 6. Communicate Effectively:

- Communicate openly with your team and supervisors about your experiences, concerns, and suggestions. Clear communication helps to identify potential issues early and allows for swift resolution.

## Understanding Major vs. Minor Changes in the Public Sector

In the CCMA, much like in the public sector, change initiatives can vary significantly in scope and impact. Knowing the difference between major and minor changes helps employees understand the level of involvement and adaptability required.

### 1. Major Changes:

Major changes are significant, large-scale initiatives that affect multiple departments, processes, or services. These changes often require substantial planning, resources, and time to implement. Major changes usually require the support from the change management function.

#### • Examples:

- Introduction of a new digital platform or system across the organisation.
- Organisational restructuring, such as merging departments or creating new teams.

#### • Employee Role:

- Adaptability: Be prepared for a period of adjustment. Understand that these changes may bring new roles, responsibilities, or workflows.
- Participation: Actively participate in training sessions and workshops to understand the new systems or processes.
- Feedback: Provide constructive feedback during the transition to help improve the process.

### 2. Minor Changes:

Minor changes are smaller-scale adjustments that typically have a limited impact on day-to-day operations and affect a smaller group of employees or a specific process. Minor changes are normally implemented with or without intervention from the change management function, though support can be provided as and when needed.

#### • Examples:

- Updates to a specific internal policy or procedure.
- Minor changes to departmental workflows or reporting requirements.

#### • Employee Role:

- Awareness: Stay aware of these changes and understand how they impact your specific role or team.
- Compliance: Ensure you are following any new guidelines or protocols that come with the change.
- Support: Help your team by sharing knowledge and supporting others in understanding and adopting the minor changes.

**Every employee plays a critical role in making change successful, whether it is a major transformation or a minor adjustment. Understanding the difference between these types of changes helps you know what to expect and how to effectively contribute. By staying informed, being adaptable, actively participating, and communicating openly, you become an essential part of our organisation's journey toward continuous improvement**



## **Conflict of Interest: Why Disclosure is Key to Fair Labour Practices**

A Declaration of Interest (DOI) is a formal statement or declaration made by employees wherein they disclose any form of actual or potential personal or financial interests that they may have and those that may conflict with their professional responsibilities. This is an imperative action, taken in most places of employment, geared towards maintaining transparency, accountability, and fairness in employment relationships by ensuring that there is no misuse/abuse of an employer's resources for personal gain; meaning the work undertaken is done so in good faith.

### **Why Is It Important To Declare One's Interests?**

There are several reasons that speak to this importance:

1. **Prevents Conflicts of Interest:** Declarations help identify potential conflicts between one's personal interests and one's professional contractual responsibilities, ensuring that employees make informed decisions that benefit the organisation first rather than themselves.
2. **Maintains Transparency:** Declaration of interests promote openness and honesty, fostering trust among colleagues, employees, employers, and clients.
3. **Ensures Accountability:** By disclosing their interests, employees acknowledge that their professional obligations take precedence over their personal interests and that they can be held accountable for any actions that may compromise this balance.
4. **Protects Employers:** DOIs safeguard employers from potential risks such as financial losses and/or reputational damage.

### **Legal Implications**

In South African labour law, declaring interests is mandated by various laws and regulations, including:

1. Labour Relations Act 66 of 1995 (LRA): Employers must establish procedures for declaring interests to prevent conflicts and ensure fair labour practices.
2. Employment Equity Act 55 of 1998 (EEA): DOIs are essential for promoting equal opportunities and preventing unfair discrimination in the workplace.
3. Companies Act 71 of 2008: Directors and prescribed officers must declare interests to prevent conflicts and ensure responsible corporate governance.
4. Public Service Act 103 of 1994: Public servants must disclose financial interests to maintain transparency and accountability in government.

### **Consequences of Non-Compliance**

Failure to declare interests can result in:

1. **Disciplinary Action:** Employees may face disciplinary action, which may lead to dismissal based on the merits of the case.
2. **Legal Liability:** Employers and employees may be held liable for damages or losses resulting from conflicts of interest.
3. **Reputational Damage:** Non-compliance can damage an organisation's reputation and erode trust among stakeholders.

### **Best Practices**

To ensure effective declaration of interests, employers should:

1. **Establish Clear Policies:** Develop and communicate clear procedures for declaring interests.
2. **Provide Training & Systems:** Educate employees on the importance of declaring interests as well as the consequences of non-compliance. Employers must also ensure that they develop and deploy systems to aid in the recording of DOIs in order to ensure that the process is effortless, accessible and reliable.
3. **Regularly Review:** Regularly review and update DOI declarations to ensure accuracy and relevance.

### **Here are some interesting rulings pertaining to the declaration of interests:**

Employers have a legitimate expectation that their employees will prioritise the organisation's interests during working hours and avoid any activities that may be in conflict with this obligation. Engaging in private business ventures or activities that compromise the employer's interests is considered a serious offense, potentially warranting dismissal for gross misconduct. However, case law from the Commission for Conciliation, Mediation and Arbitration (CCMA) reveals that the issue of conflict of interest is more nuanced than initially apparent. In the case of *Steyn v Crown National (Pty) Ltd* (2002), the CCMA found that an employee's dismissal for planning a competing business venture was unfair, as the employee had not yet engaged in any activities that directly conflicted with the employer's interests. Similarly, in *Devine v SA Breweries* and another (2003), the CCMA ruled that an employee's dismissal for operating a private computer sales business was unfair, as the business was deemed unrelated to the employer's operations.

Furthermore, in *SAMA obo Craven v Department of Health* (2005), the CCMA determined that a prison medical officer's dismissal for providing private medical services to inmates was unfair, as the employee was unaware of the relevant rules prohibiting such activities. While conflict of interest is generally considered a serious offense, these cases illustrate that certain conditions must be met before the CCMA will uphold a dismissal. Employers must ensure that they have clearly communicated their expectations and policies regarding conflict of interest to employees and that any disciplinary action taken is proportionate to the offense committed.

### Key Considerations for Employers

When dealing with conflict of interest cases, employers must prioritise the following:

1. Gathering hard facts: Employers must collect concrete evidence demonstrating that the employee's actions have harmed the organisation's interests.
2. Establishing knowledge of the rule: Employers must prove that the employee was aware of the rule prohibiting conflict of interest.
3. Choosing the correct charge: Employers must select the appropriate charge and ensure it is properly worded to avoid technical errors.

### Additional Factors to Consider

1. Actual harm vs. potential harm: Employers must show that the employee's actions have already caused harm to the organisation, rather than simply

posing a potential risk.

2. Conflict vs. complementary business: Employers must demonstrate that the employee's private business conflicts with the organisation's interests, rather than potentially benefiting them.
3. Industry norms: Employers must consider industry norms and expectations regarding private work and ensure that their rules are clear and communicated to employees.

### Potential Pitfalls

- Technical errors: Employers must avoid technical errors, such as dismissing an employee for the wrong charge or failing to properly word the charge.
- CCMA appeal: Employers must be prepared for the possibility of an employee appealing a dismissal to the CCMA and ensure that their case is strong enough to withstand scrutiny.

By prioritising these considerations, employers can ensure that they handle conflict of interest cases fairly, consistently and effectively.

### Conclusion

Declaring interests is a critical aspect of maintaining transparency, accountability, and fairness in the South African labour market. By understanding the importance of DOI and the legal implications of non-compliance, employers and employees can promote a culture of integrity and responsibility in the workplace. It should be noted that it is not just a procedural requirement, but a fundamental aspect of maintaining trust and integrity in the workplace. As the Labour Court has consistently ruled, failure to disclose interests can lead to serious consequences, including dismissal. By prioritising transparency and accountability, employers and employees can ensure a fair and just work environment.



# CCMA CONNECT

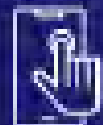
A GREAT

## MOBILE APP

## FOR YOU



Easy To Use,  
Anywhere, Anytime



Track and Trace  
your case



Streamlined User  
Interface



24 Hours  
Access





## Navigating the CCMA's Rule 24: A Practical Guide to Effective Dispute Resolution

### The significance of Rule 24

The social justice mandate of the CCMA is to, as far as this is reasonable, be accessible to its Users in order to enhance expeditious, efficient, and effective resolution of disputes. The CCMA aims to take reasonable steps to ensure that every party to a dispute is provided with an equal opportunity to be heard without any prejudice caused in terms of travel and accommodation costs.

### Process to determine area of jurisdiction

- Any party requesting that the matter be heard in another province or region may file an application in terms of CCMA Rule 24. A copy of the CCMA Rules may be found on the CCMA's website ([CCMA – The Commission for Conciliation, Mediation and Arbitration](#)), the CCMA/BUSA Labour Advice for Small Business Web Tool ([Home - SME Labour Support by CCMA and Busa](#)) or the CCMA's mobile application (*CCMA Connect*), or at any regional CCMA office.
- Such an application must be made in writing.
- The application must be filed with the regional office where the dispute was referred. Where necessary, the regional office will submit the application to the CCMA's Head Office for a determination to be made by a Senior Commissioner.
- If the other party wishes to oppose the application, that must be done in accordance with Rule 31 of the CCMA Rules.
- The written determination will be submitted to both parties.
- Parties may also file an agreement for

the matter to be heard in a different regional office. However, the CCMA still bears the prerogative to determine the venue/ region where the hearing should be held.

### Factors to consider

- Area where the dispute arose or where the employers' principal place of business is located.
- Nature of the dispute (documentary evidence involved, witnesses and any Representation).
- Timing of the application.
- Reasons for the venue change.
- Location of both parties.
- Proximity of both parties in the event an alternative location is proposed.
- Prejudice to the parties.
- Interests of the parties (e.g. health conditions that may impact on their travelling logistics, etc.)
- Whether one or both parties have access to online/digital platforms and any related resources which

may be used in the alternative.

### Assistance by the CCMA

- The region which has been determined as the area of jurisdiction may schedule the proceedings at the venue closest to both parties.
- Where the Rule 24 application is refused, the CCMA where possible, may attempt to accommodate parties experiencing challenges through alternative means, such as through the use of online/digital platforms.

### Plans to review or amend Rule 24

Any plans to amend a CCMA Rule falls within the competence of the Office of the CCMA Director and the CCMA's governance structures.

*Ms Kagiso Nthite*

*CCMA Senior Commissioner*





### Honouring Mandela's Legacy the CCMA way

In a heartfelt tribute to the legacy of Nelson Mandela, the CCMA, led by its Acting Director Mr. Xolani Nduna, together with the Acting Executive: Governance & Strategy Ms. Nolufefe Nyamezele, the Western Cape's Provincial Senior Commissioner, Mr. Vusumzi Landu, and other stakeholders commemorated Nelson Mandela Day on July 18, 2024, with Ladles of Love, a non-profit organisation. The event, held under the theme "It is still in our hands to combat poverty and inequity," supported the efforts of the non-profit organisation dedicated to providing essential nutrition to vulnerable children and communities.

Ladles of Love has made a remarkable impact since its inception, primarily by providing daily nutrition to children aged one to six years old through a network of under-resourced Early Childhood Development Centres across the Western Cape, Northern Cape, and Gauteng. The organisation has grown exponentially, becoming one of South Africa's largest non-profit providers of food relief, having served over 43 million meals to vulnerable people since March 2020.

The Mandela Day event took place at the Lookout in the Waterfront, Cape Town, where communities and corporate partners united to give back by making toys, sandwiches, nutrition boxes, and books for those in need. The day was a true reflection of Mandela's vision of solidarity and community upliftment.

As part of the CCMA's ongoing commitment to social responsibility, and under the banner of its "Imvuselelo - The Revival" Strategy (2020/21-2024/25), the organisation donated R54 000 to Ladles of Love to further support their mission. This donation underscores the CCMA's dedication to addressing poverty and inequality, in line with the Government's Youth Developmental Policy and the National Development Plan 2030.

Speaking at the event, Ms Nolufefe Nyamezele expressed the importance of the CCMA's contribution, saying, "It is our responsibility as a public institution to not only uphold labour laws but also to play an active role in alleviating poverty and supporting vulnerable communities. By donating to Ladles of Love, we are investing in the future of our youth and contributing to the betterment of society as a whole."

The then Acting Director, Mr. Xolani Nduna further emphasised the organisation's broader commitment, stating, "The CCMA has always been involved in supporting various social initiatives, from food kitchens to day care Centres, to assisting abandoned and orphaned babies and victims of crime. We believe that by supporting these causes, we are helping to build a more just and equitable society."

This collaboration with Ladles of Love is yet another example of the CCMA's dedication to social justice and the empowerment of disadvantaged communities. Through initiatives like these, the CCMA continues to honour Nelson Mandela's legacy by making a tangible difference in the lives of those who need it most.







## **Enforcement of Arbitration Awards in accordance with Section 143 of the Labour Relations Act (LRA) No. 66 of 1995.**

### **Questions:**

#### **1. What are the key requirements for enforcing an arbitration award under Section 143 of the LRA, and what documentation is needed to support the enforcement application?**

- There must be non-compliance with the award issued by the CCMA or Bargaining Council.
- An employee who complains that an employer refuses to comply with the award issued, reports to a CCMA Regional (Provincial) Office or the Bargaining Council where the award was issued. Where an employee is not able to access a CCMA office, he or she may apply for such assistance by means of the post, or e-mail.
- The employee must complete the application for certification of awards form (LRA 7.18 form for CCMA awards and LRA form 7.18A for Bargaining Council awards).
- A copy of the application must be served on the other party/employer.
- Employee must ensure that the employer was served the award, and such proof should be attached to the application that has also been served on the employer.
- The arbitration award will be considered for certification by the CCMA and/or Bargaining Council.
- Where the Department of Employment and Labour is the applicant party, the written undertaking or compliance order will first be made an arbitration award before being certified and processed for enforcement.
- The CCMA and/or Bargaining Council will then submit the certified award and the completed LRA 7.18 Form / LRA 7.18A to the applicant who may then take the documents to the Deputy Sheriff for enforcement.
- Where an arbitration award orders the performance of an act other than the payment of money, the certified award and the completed LRA 7.18 or LRA 7.18A may be filed with the Labour Court for contempt proceedings.
- For the Court to make a finding of contempt of Court, it must be established beyond reasonable doubt that: (1) there was a refusal to comply with the order; (2) this refusal was wilful (deliberate); and (3) the deliberate refusal to comply must be mala fide (without justification).

#### **2. How does the CCMA ensure that arbitration awards are enforced in a timely and effective manner, and what mechanisms are in place to address any delays or non-compliance?**

Awards are sent timeously and until such time the Applicant attends at the CCMA and advise of the non-compliance, then the CCMA would step in and assist with the certification. For those awards that are sent by registered post or the post office, Applicant would be contacted telephonically to advise that the awards have been sent. The regional office will advise as to where they can collect the hard copies.

Text messages are also disseminated to advise parties that the awards have been rendered and whether the Applicant has been successful in their matter or not.

Should there be non-compliance with the award, the responsibility lies solely with the Applicant to advise the CCMA or Bargaining Council of same. The CCMA and /or Bargaining Council will then act upon such information and assist the Applicant with having the award certified.

#### **3. In terms of Section 143, what are the consequences for an employer who fails to comply with an arbitration award, and how can employees or their representatives ensure that the award is enforced?**

- Should an employer fail to comply with an award that orders a party to pay a sum of money, the amount will earn interest from the day of the award at the same rate as the rate prescribed from time to time in respect of a judgment debt in terms of section 2 of the Prescribed Rate of Interest Act No. 55 of 1975, unless the award prescribes otherwise [s143(2) LRA].
- The orders for payment of a sum of money may be enforced by execution against the property of the employer party by the Sheriff of the court in the Magisterial district where the employer party resides or conducts business.
- Should the employer fail to comply with an award that orders re-instatement or re-employment, the employer may be found to be in contempt through Contempt proceeding instituted at the Labour Court and may be susceptible to a fine or imprisonment.

**4. How does the enforcement of arbitration awards under Section 143 contribute to the overall effectiveness of the labour dispute resolution process, and what role does the CCMA play in ensuring that awards are enforced and complied with?**

Section 143 of the Labour Relations Act No. 66 of 1995 (LRA) provides an effective and accessible way to enforce an arbitration award where the award has not been complied with. The award can be enforced as if it was an order of the Magistrate's Court, and the fees applicable will be on the Magistrate's Court scale.

Section 142 of the LRA provides effectiveness of making settlement agreements to be arbitration awards that can be enforced through section 143 of the said Act which is an indication that settlement agreements are also valuable and enforceable.

The 2018 amendments to the Basic Conditions of Employment Act No. 75 of 1997 (BCEA) extend the enforcement function of the CCMA to include compliance orders issued by the Department of Employment and Labour and written undertakings made by employers to comply with provisions of the National Minimum Wage Act (includes the extended definition of "workers"), 2018, the Unemployment Insurance Act No. 30 of 1996, the Unemployment Insurance Contributions Act No. 4 of 2002 and the BCEA.

**By: Zinziswa Simandla**

**Senior Commissioner: Councils and Agencies**





**CCMA STATUTORY  
SERVICES ARE  
AVAILABLE FOR FREE**

**0861 16 16 16  
info@ccma.org.za**



## Rising Through the Ranks: The Inspiring Journey of a CCMA Female Commissioner

*August is a significant month in South Africa, dedicated to celebrating women and acknowledging their remarkable contributions and sacrifices across all aspects of society. At the CCMA, we take this opportunity to honour and appreciate every woman in our organisation, recognising their unique strengths and talents. In conjunction to this, the CCMA's Human Resources strategy looks into prioritising career progress for employees thus recognising its importance in fostering growth and ensuring a pipeline of skilled talent to fill various vacancies and support the organisational expansion. While participating in career development initiatives does not guarantee one's promotion to senior roles, it prepares employees for future opportunities through established selection processes. As we take a look into the progress made thus far, the CCMA's Communication sub-unit spoke to exceptional female Commissioners in order to learn more about themselves and the ranks they have climbed since they joined the CCMA.*

*"Wathint' abafazi, wathint' imbokodo" - "You Strike a Woman, You Strike a Rock" - a testament to the resilience and determination of women everywhere.*

### 1. Mandy Coetzee

**Provincial Senior Commissioner, East London**

*Where did it all start (Background on your first day joining the CCMA, positions you held before your current position)*

I joined the CCMA family on 1 February 2012 as a Full Time Commissioner in the Gqeberha region. I was later

asked to assist in heading up the then Dispute Management and Prevention unit. I thoroughly enjoyed this role as I gained new insights into additional strategic imperatives beyond the hearing room and enhancing the labour market with the various interventions on offer. I made every effort to ensure my continuous professional development including gaining an understanding into case management operations and efficiency. This prepared me to take up an acting tenure as the Convening Senior Commissioner for the region in 2019. The role challenged me in so many ways and this while attaining my Master's Degree in Law. That year, the region was awarded best performing region in Mediation and best performing region overall! I was officially appointed RSC of the region in 2020. I continued to embrace the opportunities the organisation offered and took up tenure as the Acting Provincial Senior Commissioner for the Eastern Cape. With the reconfiguration of the province, the role included oversight of both the East London and Gqeberha offices. I worked hard to advance synergy and collaboration between the sister regions to improve efficiency, good governance and service delivery. On 1 August 2021, during women's month, I was officially appointed as the first female PSC for the Eastern Cape.

*What do you hope to achieve in your tenure as Commissioner, and what impact do you hope to make on the labour law landscape?*

I hope to continue to make a difference in the lives of the people whom we serve.

*What are some of the most significant changes or trends you've observed in labour law and dispute resolution during your career, and how have you adapted to these shifts?*

The rise of gig platforms and hybrid forms of work has challenged traditional classification of workplaces as we know it. This requires a rethinking of how dispute resolution would

be approached in the CCMA, within the legislative frameworks and the need for reform where necessary. Legal frameworks will soon need to shift towards hybrid forms of work and how employers assess health and safety obligations for home workers as well as the interplay of international employment law. Additionally, there is a need for to capacitate users on stronger mediation and negotiation skills to promote labour market stability. Social media has also placed a large spotlight on diversity awareness, equity and inclusion. The obligation on employers around issues pertaining to harassment and anti-discrimination practices requires thorough review of workplace policies. As a commissioner one needs to remain resilient with the increasing reliance on technology, AI and automation amidst the changing world of work and how this impacts workplaces/ gigs. Additionally, as Commissioners we should promote capacity building and knowledge on harassment and discrimination in the workplace and foster strong dispute resolution mechanisms where such disputes are referred to the CCMA.

*What advice would you give to young women who are just starting their careers in labour law or dispute resolution, and what qualities do you believe are essential for success in these fields?*

Do not be afraid to share ideas and to explore new opportunities when they arise. Growth comes from a great work ethic, respect for others and navigating the most challenging of days.

*Five things we do not know about Mandy.*

- I am a home body!
- I love interior design and event planning.
- I am a phenomenal cook
- My kids are my world



## 2. Xoliseka Santi –

### Commissioner Johannesburg Regional Office

*Where did it all start (Background on your first day joining the CCMA, positions you held before your current position)*

I started in the CCMA in 2019 as a part time interpreter in the Gqeberha Office in the EC. I was then appointed as a Case Management Officer (CMO) in Ekurhuleni in 2012. I was given an opportunity to act as the Vaal Senior Case Management Officer (SCMO) before I was appointed on a full time basis for the same position. I then moved to the Johannesburg office as a SCMO. I was then seconded in the National Office as a Business Analyst. I was later appointed as a commissioner which is the current position I am occupying.

*Looking back on your accomplishments, what do you consider your most significant contributions to the CCMA and the broader legal community, and how do you hope your legacy will inspire future generations of leaders?*

Being selected as a Case Management Officer (CMO) within the East London Office who received an award for the most improved region for that same year was one of my best moments. The best legacy I can leave is that do it right the first time and do it with passion...ask when you are stuck and do your legal research. Working for the CCMA is about promoting social justice therefore everywhere you are you need to ensure that the tasks allocated to you are done efficiently and effectively.

*How do you balance the need for impartiality in dispute resolution with the importance of empathy and understanding in complex labour cases?*

Being impartial comes with my current role. Commissioners are guided by the statutes and case law as a point of reference. Every finding needs a point of reference. I may be sympathetic, but my sympathy feelings cannot overlook what is deemed fair in terms of substance and procedure not forgetting that must in line with the code of good practise. When it comes to complex matters, I do not lose sight of what is the actual dispute and what section in the statutes applies and any decided high courts cases.

*What advice would you give to young women who are just starting their careers in labour law or dispute resolution, and what qualities do you believe are essential for success in these fields?*

Do labour law if you have a passion for it. What is key is integrity, honesty and respect. Respect will make your process run smoothly. Do not allow your emotions into the process and always keep calm remembering that this is not your case, but that of the employee and employer.

*Five things we do not know about Xoliseka?*

- I love singing and was in a choir when I was a student.
- I love playing netball
- I love hiking
- I enjoy cooking
- I laugh a lot



### 3. Sandra Mathebula Commissioner, Johannesburg Regional Office

*Where did it all start (Background on your first day joining the CCMA, positions you held before your current position).*

I was working at Technikon SA, as an Administrator on a fixed term contract. Sometime in 1999 while on my three (3) weeks

leave, I was contacted by my recruitment agency, and CCMA was looking for temporary staff. I had never heard of the CCMA before and had no clue what the organisation was about. I went for an interview, was successful and I commenced working that very day. I was allocated Commissioners I was going to work with and taught how to schedule and close files. After three weeks, I went back to Technikon SA and handed in my resignation. Fast forward, the position of a PA to the Senior Commissioner became vacant and I applied and got the position. In 2002, the National Office launched a call centre and needed staff; it was on 01 June 2002, that I became one of the first five (5) Call Centre Agents to be appointed. In 2005, the then Call Centre Manager left the position, and I took over from her until I left the position in 2019 to become a Commissioner at the Johannesburg Office, a position I am still holding.

*What does a typical day look like for you as a Commissioner at the CCMA, and how do you prioritise your tasks?*

I get to the office early and work on my administration from the previous processes such as completing outcome certificates, outcome reports, issue directives, depending on what I had the previous day. If I have outcomes to generate, I work on those depending on when they are due for submission. If for some reason I do not have anything to write, which is very rare, I read case law. Thirty minutes before 09h00, I fetch my files for the day and go through them in readiness for the day.

*How do you define success in your role as Commissioner, and what metrics or outcomes do you use to measure it?*

Success in my role as a commissioner means that my settlement agreements and outcomes ensure that social justice is served. It means displaying fairness to both parties and ensuring that the right of the vulnerable are protected in the hearing room and in the outcomes that I generate.



#### 4. Noloyiso Sithole – Commissioner, DP&WO Commissioner (Dispute Prevention & Workplace Outreach)

##### Where did it all start (Background on your first day joining the CCMA, positions you held before your current position)

My journey with the CCMA started in September 2012 when I was appointed as an HR Assistant for the Free State Region. I occupied this position until April 2015. I got intrigued by the kind of work that Case Management Officers do and saw an opportunity to learn more about the organisation as I regard case management as the core department wherein everything begins. In May 2015 I started as a Case Management Officer and things got more interesting and that is when I decided to further my studies to become a commissioner. I was then appointed as a commissioner on 1 September 2018.

##### What role do you think mentorship has played in your career, and how do you pay it forward by mentoring or supporting others?

Mentorship played an incredible and valuable aspect to my professional growth as it provided me with the necessary knowledge and developed critical skills in me such as negotiation, mediation, and strategic thinking, which are essential for preventing disputes and resolving conflicts effectively. Mentorship further assisted with boosting my confidence and provided constructive feedback that helped in handling complex situations with greater assurance. I pay it forward by organizing or participating in training sessions and workshops to teach others about effective dispute prevention techniques and strategies.

##### How have you navigated any biases or obstacles related to gender, race, or other factors in your career, and what strategies have helped you succeed?

Self-awareness has helped me to respond strategically and assertively to any biases or obstacles related to gender, race, or other factors in my career. Engaging in ongoing training on diversity and equity has provided a better understanding on how to address biases within myself and the broader environment. One of the strategies that have helped me to succeed in my role is by showing that I value others' perspectives, and this helps to build relations and credibility.

##### What advice would you give to young women who are just starting their careers in labour law or dispute resolution, and what qualities do you believe are essential for success in these fields?

For young women starting their careers in labor law or dispute resolution, several pieces of advice and essential qualities can help pave the way to success, starting with developing a strong education foundation by focusing on gaining a solid understanding of labor law principles, dispute resolution techniques, and related legal frameworks. Seeking practical experience through internships or volunteering opportunities in relevant settings to gain hands-on experience and practical insights may also help. One needs to keep up with the latest developments in labor law and dispute resolution as laws and practices can evolve, so staying informed will help young women remain effective and relevant. Amongst others, the essential qualities involved in this field are strong work ethics which is to uphold high standards of professionalism and ethical conduct in all interactions and responsibilities. Communications skills, negotiation and analytical thinking skills, empathy and emotional intelligence can build a successful and fulfilling career in labor law or dispute resolution.

##### Five things you do not know about Noloyiso:

- I have a beautiful voice and love to sing 😊
- Cooking is one of the things I enjoy doing, especially when hosting friends and family
- I play boardgames and my favorite is scrabble
- I like outdoor activities, e.g., camping and hiking
- I travel a lot, visiting interesting destinations around South Africa







# CCMA - QUARTER 2 THROUGH THE LENS



## #EmpowerHer Campaign in support of Women's Month

In celebration of Women's Month this year, we honoured the numerous trailblazers who have paved the way for future generations of women leaders in South Africa. Whilst there has been notable progress made, it is crucial to note that there are still many women tussling with a number of barriers that hinder their realisation of their full potential. The **#EmpowerHer Campaign**, a clarion call to uplift, inspire, and empower women to shatter the proverbial glass ceiling ensuring that they achieve greatness.

In commemoration of the Campaign, we invited both women and men within our CCMA Family for them to share words of encouragement aimed at empowering women leaders.



**Antionette Louise Buitendag - Regional HR Assistant**

A salute to women who support each other, lift each other up and celebrate each other's achievements. Cheers to those who encourage those who have lost themselves along the way and those that inspire others to be the best they can be. Together we are stronger.



**Busisiwe Yvonne Masilela - Assistant Manager: Demand Management**

There is something so special about a woman who dominates in a man's world. It takes a certain grace, strength, intelligence, fearlessness and the nerve to never take no for an answer.





### **Boitumelo Mokoena - Senior Commissioner: Collective Bargaining – Mediation**

The Chinese philosopher, Lao Tzu said: "The journey of a thousand miles begins with one step". Believe in God's purpose for you. Believe in yourself, work smart, listen to your ancestors and trust them. They are your DNA. Get this right and light and love will surround you always.



### **Nkosinathi Mkhwanazi – CSA Secretary General**

Today is a very special day in our beloved country history. This is a day wherein we are commemorating the undying spirit bravely of our women of 1956 in the fight against the extension of Pass Laws to women. Lugubriously, the injustices and struggles of women continue to date, for total liberation and total emancipation is yet to be realized. It is upon this generation, all of us men and women to ensure that our women are free from all types of abuse be it at home, community, workplace and in the society at large. For there is no considerable force for real change, for real peace, real justice, and democracy in real terms. I mean there is no real force for total economic inclusivity than a society of empowered women.

Let us all play our active role in ensuring that women are protected, appreciated, and always celebrated. Let us make our spaces a safer place for all women in our lives.

To all our women comrades and members, may you enjoy this special day.

CSA Cares.

United we are stronger!!!

We are the generation that we have been waiting for!!!





**Elias Hlongwane – Acting National Senior Commissioner: DP&R**

Without Women, the World would not see Civilisation. A big THANK YOU to women.



**Bekithemba Xolilizwe - Case Management Officer**

To the women of South Africa, your strength echoes the resilience of our nation's heroines like Winnie Mandela and Albertina Sisulu, who stood firm against oppression. Just as Esther in the Bible rose to lead her people with courage and wisdom, you too possess the power to transform our world. Embrace your unique gifts and continue to break barriers, for you are the pillars of our society, the nurturers of dreams, and the architects of a brighter future. **#EmpowerHer**



**Bongumusa Khumalo - Acting CCMA Director**

As we celebrate the Women's Month, I would like to take a moment to reflect on the significant strides made over the past 30 years in elevating women to strategic positions across various sectors. This month provides us with a vital opportunity to acknowledge the progress achieved and remarkable contributions that women have made to our society. However, we must recognise that much work remains to be done. Despite the advancement in women's representation and involvement in leadership roles, few hurdles still persist.



**Julie Govender - Case Management Officer**

Women: We are divine beings with infinite power. Use this power to the best of your ability to equip yourself with all of life's skills, both at home and at work. Avoid being "a people pleaser". This does not bode well with your soul. With experience, I have learnt that validation comes from within, and one must honour and acknowledge one's own strengths, contributions, and achievements. It is important to thank yourself for how far you have come in your personal endeavours. This is more important and gratifying than the external validation from others. Be true to yourself and courageous in whatever you do. Love who you are and who you have become.



**Denise Mantle- Executive Support to the Executive: Corporate Services**

Have the courage to ask for help – this helps us to learn- continuous learning leads to growth.



**Mandisa Mbhele – Commissioner**

Opportunities await those who are already taking action, and your greatest challenge is yourself. The true test of leadership is to empower others to become leaders, and we deserve a seat in every boardroom where crucial and executive decisions are made. Keep striving, and may your character inspire more women to claim their rightful place in leadership.





**Nondumiso Xulu - Mailroom Clerk**

Every woman's success should be an inspiration to another.



**Gloria Mvelase - Contact Centre Agent**

I would like to remind my colleagues and all women how precious they are in these controversial times we are living in. You are Beautiful, Capable, Victorious, Enough, Strong, Amazing...you are never alone and you have been chosen for a special purpose. When trials and tribulation are taking a toll on us, let us remember that we are loved and can make it through any hardship.



**Tersia Stroh - Senior Manager: Dispute Prevention and Resolution**

There is no limit to what you as a woman can accomplish. Let your eagerness to continuously learn and your willpower to improve, be your driving forces. Use your voice wisely, but always remain gracious and humble.



**Baatseba Sefume - Officer: Human Resources**

When a seed is sown among women, it grows.

**CCMA INTOUCH NEWSLETTER IS  
PUBLISHED BY**

*ACTING CHIEF EDITOR*

NOLUFEFE NYAMEZELE -  
ACTING EXECUTIVE GOVERNANCE &  
STRATEGY  
NOLUFEFEN@CCMA.ORG.ZA

*EDITOR*

BOITUMELO RAKAU -  
MANAGER: BUSINESS RESEARCH  
INTELLIGENCE & COMMUNICATIONS  
BOITUMELOR@CCMA.ORG.ZA

*EDITORIAL TEAM*

KEFENTSE MOLOTSANE -  
TEAM LEADER: COMMUNICATIONS  
KEFENTSEM@CCMA.ORG.ZA  
PIKOLOMZI QABA-INTERNAL  
COMMUNICATIONS OFFICER  
PIKOLOMZIQ@CCMA.ORG.ZA  
DITEBOHO SIMELANE -  
EXTERNAL COMMUNICATIONS OFFICER  
DITEBOHOS@CCMA.ORG.ZA

*CONTRIBUTERS*

KAGISO NTHITE  
ZINZISWA SIMANDLA

