

New

CCMA RULES

**HALF-DAY
WORKSHOP**



Let's say it is your foot, the banana is the latest changes to the CCMA rules and the floor is extremely hard. Predicting the application and interpretation of the latest amendments can place you in a rather vulnerable position. As you charge boldly into the future, these changes can sneak up on you and bring you to your knees – or to some even humbler part of your anatomy! Clearly, something should be done to avoid the proverbial slip on the banana peel and may we suggest that you attend our upcoming half-day workshop.



Reservation Enquiries: Taryn van der Merwe

Tel: (041) 373 4322 • Email: pa@vanzyrudd.co.za • www.sallr.co.za  South African Labour Law Reports

The new CCMA rules, in terms of the *Government Gazette of 7 December 2018*, are effective from 1 January 2019.

The workshop will also incorporate the following:

- the relevant provisions of the LRA Amendment Act 2018, effective from 1 January 2019
- the relevant provisions of the National Minimum Wage Act 2018, effective from 1 January 2019
- the relevant provisions of the Basic Conditions of Employment Amendment Act 2018, effective from 2 January 2019
- the relevant principles contained in case law handed down from 1 April 2015 to 31 December 2018 and necessitating amendments to the CCMA rules

In a previous brochure, we set out some of the issues that will be dealt with during the workshop. If, for whatever reason, you have not received that brochure, then kindly contact Taryn van der Merwe on 041 373 4322 or pa@vanzyrudd.co.za so that she can forward a copy to you. Apart from these already-identified issues, the practical effect of the following further issues will also be dealt with during the workshop:

- the extended circumstances upon which the holding of a pre-arbitration conference will be compulsory
- the newly-introduced rule 20(2) indicating the time period within which such a conference must take place before the scheduled date of arbitration
- the amended rule 20(6) regulating the filing of a pre-arbitration minute so allowing the relevant commissioner to properly deal with the issues raised
- the amended rule 20(7)(b) making provision for the removal by the relevant commissioner, upon considering a pre-arbitration minute, of the matter from the roll and the re-enrolment thereof at a later date
- the newly-inserted rule 20(8) providing for the consequences if the parties fail to comply with a directive to hold a pre-arbitration conference and/or to file minutes
- the deletion in rule 21 dealing with the notification by the CCMA of an arbitration
- the consequences of a commissioner requiring a referring party to prove that the CCMA has jurisdiction to arbitrate a dispute
- the amendments to rule 23 intending to clarify when a postponement application must be brought to the CCMA
- the changes to the formula to be applied as to which regional office of the CCMA must conciliate or arbitrate a dispute, taking into account the employer's principal place of business

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- the amendment to rule 25(1)(a)(i) of the CCMA rules relating to a close corporation
- the implications that an office bearer, official or member of a party's registered trade union or registered employers' organisation must comply with the relevant definition as contained in the LRA
- the implication of the newly-created requirement that, if the party is a registered trade union or a registered employers' organisation, any member, office bearer or official of such institution must, apart from complying with the statutory definition in the LRA, also be authorised to execute such representation
- the amended representative status of candidate attorneys
- the extended prohibition against legal representation covering compliance orders and amounts due in terms of the BCEA
- the newly-created principles regulating representation and facilitation of large scale retrenchments in terms of s189A(3) of the LRA in order to avoid a number of inconsistencies as to decisions made with reference to representation of parties during such process
- in terms of rule 25(1)(f) of the CCMA rules, the CCMA no longer has a discretion to allow representatives, other than legal practitioners, to charge fees for representing parties before the CCMA
- a new provision has been inserted to permit representation by an employee of the Department of Labour, giving effect to the BCEA Amendment Act 2018
- for the first time, the CCMA has a discretion, on application and subject to certain conditions, to allow a party to be represented by any other person than referred to in rule 25(1) in any arbitration proceedings before the CCMA, apparently to give effect to the principles formulated by the labour court in *CWAO and Others v CCMA*
- the amendment to the rules governing joinder applications so as to align same with the relevant principles of case law as well as the relevant rules of the labour court
- the amended powers of the CCMA or the commissioner to make an order for joinder
- the amendment to rule 28 clarifying the legal requirements for the consolidation of various disputes, with reference to case law principles
- the amended provisions permitting the CCMA or a convening commissioner to consolidate various disputes under specific circumstances and taking into account specific factors like the balance of convenience
- the amendments to rule 29 ensuring that parties are placed in possession of all documents intended to be used at arbitration within five days of receipt of the request for disclosure, thus limiting the need to postpone matters so as to allow parties to obtain documents sought or to consider documents presented on the day of the hearing
- the correct interpretation of the failure of a party to attend arbitration proceedings
- the timelines applicable to applications in respect of variations or rescissions

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- the newly-created rule 31A read with annexure 'A' to LRA Form 7.11 allowing for picketing rules to be dealt with on an urgent basis
- the process, requirements and timelines relevant to applications for undertakings and compliance orders to be made arbitration awards in terms of s68(3) and s73(1) of the BCEA, read with the newly-created BCEA Form 15
- by means of the newly-created rule 31(6) aligning referrals of a dismissal dispute to the labour court with rule 11 of the labour court rules
- reconciling the jurisdiction of the CCMA or a commissioner to condone a failure to comply with a provision of the rules on good cause shown with the requirements relating to representation
- reconciling the requirements of the CCMA rules relating to the issuing of a subpoena and the service of same with regulation 3 of the LRA
- the amendment to rule 39(2) making individuals or applicants appearing in person eligible for costs orders in their favour, albeit it limited to disbursements relevant to the matter
- the increase in the maximum legal fees that may be awarded to a party represented by a legal practitioner in arbitration proceedings
- the awarding of costs in respect of a candidate attorney
- the deletion of the referral of a dispute relating to an award of costs to the CCMA and empowering the labour court to deal with such matter in terms of s145 of the LRA
- the amendment to rule 40 empowering a sheriff to collect interest on monies owed in terms of an award as well as enforcement or execution costs and same to be collected directly from the defaulting party
- the amendments intended to enable the CCMA to legally recover monies spent in assisting users with the execution of awards so as to ensure that such costs, with interest, are to be collected directly from the defaulting party
- the newly-created rule 40A providing for the automatic payment of arbitration costs ordered in terms of s140 of the LRA without the CCMA having to actively collect same

WHO SHOULD ATTEND?

Anybody who utilises the services of the CCMA, including the following:

- human resources and industrial relations practitioners
- CCMA officials
- trade unions
- employers' organisations
- attorneys
- advocates
- candidate attorneys

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WHEN AND WHERE?

DATE	CITY	VENUE
Monday, 1 April 2019	Bloemfontein	Kopano Nokeng Conference Centre
Tuesday, 2 April 2019	East London	East London International Convention Centre
Wednesday, 3 April 2019	Port Elizabeth	Protea Marine Hotel
Thursday, 4 April 2019	Johannesburg	Birchwood Hotel
Tuesday, 9 April 2019	Durban	Coastlands Umhlanga Hotel and Convention Centre
Wednesday, 10 April 2019	Johannesburg	The Maslow, Sandton
Thursday, 11 April 2019	Pretoria	Time Square
Monday, 15 April 2019	Cape Town	Table Bay

IMPORTANT TIMES

Registration:	07h15 – 08h00
Tea, coffee and refreshments:	07h15 – 08h00
First session:	08h00 – 10h15
Tea and coffee break:	10h15 – 10h45
Second session:	10h45 – 12h50
Concluding comments:	12h50 – 13h00
End of workshop:	13h00

WHO IS THE PRESENTER?

Dr Brian van Zyl is the co-author of various publications, which include the following: *The Final Codes on Broad-Based Black Economic Empowerment: An Analysis*, Part 1 and Part 2, *The Business of Restructuring* and *Guide to the CCMA Rules*, 1st and 2nd editions. Brian has been the presenter of *The South African Labour Law Reports* seminar since 1990. He has recently written *Changes to Employment Laws*. His latest publication titled *CCMA Rules Including Rules of Various Courts* was launched towards the end of 2018 and is currently turning out to be a best seller. Brian also regularly practices in the labour courts and the CCMA.



REGISTRATION FEES?

- Fees include free parking
- The fee for one delegate is R2 600 + VAT at 15%

A discount for multiple delegates from one organisation may be requested by contacting Taryn van der Merwe on 041 373 4322 or pa@vanzylrdudd.co.za.

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REGISTRATION FORM FOR THE NEW CCMA RULES WORKSHOP

Post/E-mail/Fax to: Van Zyl, Rudd and Associates SA (Pty) Ltd
 P O Box 12758
 Centrahil 6006

Enquiries: Taryn van der Merwe
 Tel: 041-373 4322 • Fax: 041-373 4323
 E-mail: pa@vanzylrudd.co.za

NOTE:

NOTE: UPON RECEIPT OF THE COMPLETED REGISTRATION FORM BY VZR, THE WORKSHOP FEE PER DELEGATE WILL IMMEDIATELY BE DUE AND PAYABLE.

NOTE: SHOULD A DELEGATE REGISTER FOR THE WORKSHOP AND NOT BE ABLE TO ATTEND, FOR WHATEVER REASON, SUCH CANCELLATION MUST BE IN WRITING AND RECEIVED BY VZR AT LEAST 15 CALENDAR DAYS BEFORE THE DATE OF THE WORKSHOP. IF SUCH CANCELLATION CONDITIONS ARE NOT MET, THE DELEGATE WILL BE HELD LIABLE FOR THE FULL WORKSHOP FEE.

REGISTRATION FEES (Inclusive of VAT and free parking): 1 Delegate: R2 990.00

<input type="checkbox"/> BLOEMFONTEIN KOPANO NOKENG COUNTRY LODGE MONDAY, 1 APRIL 2019 FULL NAME OF DELEGATE(S) 1. 2. 3. 4.	<input type="checkbox"/> EAST LONDON INTERNATIONAL CONVENTION CENTRE TUESDAY, 2 APRIL 2019 FULL NAME OF DELEGATE(S) 1. 2. 3. 4.	<input type="checkbox"/> PORT ELIZABETH PROTEA MARINE HOTEL WEDNESDAY, 3 APRIL 2019 FULL NAME OF DELEGATE(S) 1. 2. 3. 4.
<input type="checkbox"/> JOHANNESBURG BIRCHWOOD HOTEL THURSDAY, 4 APRIL 2019 FULL NAME OF DELEGATE(S) 1. 2. 3. 4.	<input type="checkbox"/> DURBAN COASTLANDS UMHLANGA HOTEL TUESDAY, 9 APRIL 2019 FULL NAME OF DELEGATE(S) 1. 2. 3. 4.	<input type="checkbox"/> JOHANNESBURG THE MASLOW, SANDTON WEDNESDAY, 10 APRIL 2019 FULL NAME OF DELEGATE(S) 1. 2. 3. 4.
<input type="checkbox"/> PRETORIA TIME SQUARE THURSDAY, 11 APRIL 2019 FULL NAME OF DELEGATE(S) 1. 2. 3. 4.	<input type="checkbox"/> CAPE TOWN TABLE BAY MONDAY, 15 APRIL 2019 FULL NAME OF DELEGATE(S) 1. 2. 3. 4.	

KINDLY INSERT YOUR VAT NUMBER IN RESPECT OF INVOICING:

Banking details of Van Zyl, Rudd and Associates SA (Pty) Ltd: ABSA - Newton Park - Account No: 40 8094 0399
 Branch code: 632-005

KINDLY COMPLETE THE FOLLOWING SO THAT VZR WILL BE ABLE TO ISSUE THE RELEVANT INVOICE AND STATEMENT:

Organisation: Postal address:.....
 ID no: Company reg no:

Relevant order no:

Postal code: Tel: Fax:.....

Contact person name and surname:

E-mail address of delegate(s):

Name and surname of person responsible for payment of this account:

Email address and landline of person responsible for the payment of this account:

Date:..... Name and surname: Signature: