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## **Settling disputes in the workplace through Alternative Dispute Resolution Mechanisms**

Dealing with workplace disputes in a professional, effective and timely manner is important to maintaining a healthy work environment for all. If conflict is effectively managed, negative effects can be minimised, and the business can continue to run at its best. Disputes in the workplace is common due to people of different ages, genders, cultural and religious backgrounds working together. Businesses should have specific policies in place in terms of dispute management to ensure that disputes are always resolved internally in a fair and uniform manner.

Alternative Dispute Resolutions (ADR) has become increasingly popular in South Africa due to the prolonged procedures of courts and the delays associated with it. Litigation is often associated with a surplus of disputes and a shortage of resources to cope with the volume of disputes. Therefore, ADR can be seen as a better alternative to the more conventional mechanisms for the settlement of labour disputes, as generally costs are lower and matters are resolved faster. Parties are directly involved and ADR therefore has the potential to be a more successful and sustainable solution to labour disputes. The transformation of the South African labour relations systems in 1994 created the Commission for Conciliation, Mediation and Arbitration (CCMA) institute which is specifically tasked with ADR processes in the workplace.

When a dispute is raised, whether it is by the employer, employee, trade union or employer organisation, the CCMA will appoint a Commissioner to the specific case. When the Commissioner is appointed he/she has the responsibility to resolve the dispute within 30 days of such appointment. Along with the appointment a conciliation plan is also established, which includes mediation, information collection and the recommendation of a workable solution. The outcome of the dispute will also be communicated by the Commissioner through a certificate to indicate the status of

the dispute resolution. The two most common forms for ADR in the workplace are known as conciliation and arbitration.

Conciliation is used by the CCMA in labour issues whereby the Commissioner meets with the involved parties and seeks a suitable way to settle the dispute by reaching an agreement. This process is fast, simple and inexpensive and due to the informality of the process, no legal representation is allowed. The parties are only allowed to appear before the Commissioner in person or through a representative, which representative is to be registered with an employer organisation or trade union. However, the employer may be represented by an employee, office bearer, or director. The Commissioner has the right to hold separate meetings or combined meetings where the parties have to share information. The parties are required to give suggestions on how to reach a solution and the Commissioner also gives recommendations. The right is given to the Commissioner to collect items and documents from the workplace that are needed and relevant to the dispute. When a successful compromise is reached, an agreement is drafted and a certificate will be issued to indicate the settlement of dispute.

In the case where conciliation is not successful, the parties may request that the matter be resolved through arbitration. This will take place in the form of a hearing held by the Commissioner who presides over the matter. The parties have an opportunity to state their information and the Commissioner will give a ruling, which is called an arbitration award and is a legally binding decision. If a party is unsatisfied with the arbitration award, they can make use of the Labour Court.

It is evident that disputes in the workplace should be resolved as soon as possible before it leads to more serious consequences. Parties involved in such disputes should be aware that court procedures are not the only method available and that there are more cost effective and prompt ways to resolve same.

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