

# Labour Advice Workshop




**ADVANCE THROUGH KNOWLEDGE**

**South African Labour Legislation**

Consultation  
Workshops  
Training

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# **SOUTH AFRICAN LABOUR LEGISLATION**

**What are my rights and duties?**

**Are they allowed to do that?**

**Where can I get help?**

**What can I do?**

The most frequently asked questions in the South African workplace, but is the South African labour legislation really that complex?

## **Vision**

After thirteen years practicing as labour consultant in a wide range of businesses, it was obvious that the South African labour legislation is of such a nature that everybody in the labour market urgently needs affordable knowledge and training.

Labour Advice Workshop (L.A.W.) was founded to assist businesses as well as individuals with this much needed knowledge at affordable prices.

## **Services**

We offer nationwide 1-3 day workshops for;

- employers, managers, personnel clerks, supervisors, employers organizations
- employees, shop stewards, union officials
- law, personnel management and human resources students

## **Other**

- Custom made on-site training courses, workshops and seminars are available on request.
- Assisting employers to comply with the Occupational Health and Safety Act.
- Occupational Health and Safety accident/incident investigations

## **All workshops include:**

- Course material
- Case law review
- Certificates
- Refreshments
- Catering
- Safe and Secure parking

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## CURRENT WORKSHOPS

- Introduction to the Labour Legislation
- Basic Conditions of Employment Act
- Labour Relations Act
- Management of Discipline and Grievances
- Disciplinary Hearings
- Leadership for Supervisors and Management
- Occupational Health and Safety Management
- Occupational Health and Safety: Incident and Accident Investigation
- Successful Job Interview
- Customer Service and Workplace Professionalism

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# INTRODUCTION TO LABOUR LEGISLATION

## Contents

### Basic Conditions of Employment Act

- Rights and duties of employees / employers
- Particulars of employment
- Leave
- Medical certificates
- Termination of employment

### Labour Relations Act

- Rights and duties of employees / employers
- Trade unions
- Industrial actions
- Discipline
- Unfair labour practices
- Types of dismissal
- Code of good practice

### Skills development Act

### Unemployment insurance Act

### Occupational Health and Safety Act

## Who should benefit from attending this workshop?

Entrepreneurs, employers, employees, managers, line managers, union representatives, school leavers.

## Workshop outcome

After attending this workshop attendees will have valuable knowledge of the rights and duties of employees and employers in terms of the South African labour legislation. This workshop is specifically compiled to equip everybody with important knowledge to avoid costly labour disputes.

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# **BASIC CONDITIONS OF EMPLOYMENT**

## **Contents**

- Definitions
- Regulation of working hours
- Leave
- Particulars of employment and remuneration
- Termination of employment
- Prohibition of employment of children
- Variation of basic conditions of employment
- Sectoral determinations
- Enforcement and legal proceedings
- General

## **Who should benefit from attending this workshop?**

HR Managers, line managers, managers responsible for personnel discipline, employees, union representatives, entrepreneurs.

## **Workshop outcome**

After attending this workshop attendees will have a valuable knowledge of the rights and duties of employees and employers in terms of the Basic Conditions of Employment Act.

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# LABOUR RELATIONS INTRODUCTION

## Contents

- Purpose, Application and Interpretation
- Freedom of Association and General Protections
- Collective Bargaining
- Strikes and Lock-Outs
- Workplace Forums
- Trade Unions and Employers' Organizations
- Dispute Resolution
- Unfair Dismissal
- General Provisions

## Who should benefit from attending this workshop?

This course is intended for all employers, managers, line managers, supervisors, employer organisations, trade union officials and shop-stewards.

## Workshop outcome

After completion of this workshop attendees will be able to;

- Explain the pertinent definitions relating to employment conditions
- Describe the legislative framework of workplace rights and duties
- Participating in the actions to address labour relations issues
- Participating in activities to enhance peaceful and productive workplace harmony

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# MANAGEMENT OF DISCIPLINE AND GRIEVANCES

## Content

- How to deal with Insubordination
- How to deal with absenteeism
- Poor Work Performance
- Dismissal for misconduct
- Drunkenness on duty
- Day to day issues
- Employee grievances
- Group grievances
- Grievance time limits
- Grievances and discipline
- When to outsource grievances

During this workshop we focus on the most frequent and disruptive types of misconduct. By the correct handling of these types of misconduct, employers could have saved a vast amount of financial and productivity losses. Losses caused by time and money spend on conducting disciplinary hearings and attending CCMA and Labour Court proceedings.

## Who should benefit from attending this workshop?

HR Managers, Line managers, people dealing with personnel discipline, the day to day handling of personnel, personnel clerks, supervisors, anybody responsible for managing people.

## Workshop outcome

By attending this workshop you will gain knowledge and understanding on the effective handling of recurring misconduct. Since these types of misconduct usually have roots in workplaces, we are not only focusing on the disciplinary actions towards this misconduct, but we are also discussing the origins thereof.

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# DISCIPLINARY HEARINGS

## Contents

- Chairperson
- Discipline in the Workplace
- Types of dismissals
- Procedural and Substantive Fairness
- The offense
- Investigating
- Evidence in Disciplinary Hearings
- Witness Statements
- The Charge Sheet
- Employee representation
- Notice of Disciplinary Hearing
- The partakers in the hearing
- Procedure for a Formal Disciplinary Hearing
- A guide for the Chairperson
- The verdict and finding

## Who should benefit from attending this workshop?

HR Managers, line managers, managers responsible for personnel discipline, employers organizations, union representatives and shop stewards.

## Workshop outcome:

After completion of the workshop participants will have a clear understanding on how to chair and manage a disciplinary hearing and should be able to reach a decision by taking all the circumstances into consideration.

Delegates will receive the opportunity to participate in groups and to practically chair cases in a simulated environment.

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# OCCUPATIONAL HEALTH AND SAFETY MANAGEMENT

## Content

- Basic introduction to OHS : Occupational Health and Safety
- Importance of legal compliance.
- Composition of the OHS Act.
- Elements of effective safety management.
- Good organisational safety management
- Assessing safety risks
- Achieving SHE distinction
- Duties of the CEO and general management
- Relationship between line management and the safety practitioner
- Duties of manufacturers and sale of articles.
- Duties of employees and employee involvement.
- Health and Safety Representatives and Committees
- Reportable injuries and occupational diseases
- Personal safety equipment and facilities
- Acts or omissions; exemptions, third party agreements and penalties
- Establishing an effective SHE system

## Who should benefit from attending this workshop?

The CEO, Directors, Management, line Management, Supervisors, GMR 2(1) appointees, GMR 2(7) appointees, Safety officers, Compliance officers, Union Representatives and Learners in law and human resources.

## Workshop outcome:

This course is intended for all managers who should know the requirements of the Occupational Health and Safety Act (OHSA) and the consequences of non-compliance.

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# OCCUPATIONAL HEALTH AND SAFETY INCIDENT/ACCIDENT INVESTIGATION

## Content

### Introduction; overview and important information

- Introduction and general responsibilities
- Incident investigation overview
- Incident investigation process

### Conduction the investigation

- Investigate the incident
- Identify causes
- Report the findings
- Analyzing facts
- Report writing
- Take corrective action
- Implementation
- Evaluate the effectiveness

### Who should benefit from attending this workshop?

Managers/supervisors, Safety officers, Appointed incident investigators, Health and Safety Representatives

Health and Safety Committee Members, Union representatives

### Workshop outcome:

The purpose of incident investigation is to identify the root cause(s) of incidents in order to take corrective action and to implement the necessary controls to prevent further occurrences of such events. Effective recording, reporting and investigation of nonconformity, is an important part of an effective occupational health and safety program.

Organisation should establish, implement and maintain procedure(s) to record; investigate and analyse incidents in order to:

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- determine underlying Health and Safety deficiencies and other factors that might be causing or contributing to the occurrence of incidents;
- identify the need for corrective action;
- identify opportunities for preventive action;
- identify opportunities for continual improvement;
- communicate the results of such investigations.

The results of incident investigations shall be documented and maintained.

**The qualifying learner will be capable of:**

- Describe responsibilities for incidents
- Explain the legislative requirements applicable to the investigation and reporting of incidents
- Explain when and why to report workplace incidents
- Explain why incident investigations should be performed
- Explain when an incident investigation should be performed
- Explain who should perform the incident investigation
- Identify the different types of workplace incidents
- Identify the causes of incidents
- Reporting the findings of the investigation
- Analyzing the facts of the investigation
- Writing the incident report
- Making recommendations in order to take corrective action
- Communicating and following up the recommendations of the incident
- the effectiveness of
- Evaluate and monitor the effectiveness of the corrective action
- Outline the steps of incident investigation

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# Customer service and workplace professionalism

## Content

### Part 1 : Professionalism

- What is the definition of Professionalism?
- Why are you here?
- Are You a Professional?
- Improving your professionalism
- Effective communication
- Handling Conflict in the Workplace
- Professional Attire: dress like a professional.
- Time Management
- Performance Measurement
- The Professional Team

### Part 2 : Customer Service

- What is the definition of Customer service?
- Types of Customer Service
- Why is good customer service important?
- What does the Customer want?
- Service Recovery
- What you should, and should not say to a customer
- Customer Service Attitude
- Putting it all together : Service Oriented Professionals

### Who should benefit from attending this workshop ?

All retail industry staff including employers, business owners, managers, supervisors, employees

### Workshop outcome

The workshop that no company can afford to do without.

Customers are the life-blood of a business. Do your employees truly understand this?

Employees are taught the basics of why customers are so important to a business, and, even more importantly, how to make and keep customers happy.

Professionalism and work-place ethics are also extensively covered.

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# **The Successful job Interview.**

## **Content**

- Getting the interview.
- Preparation for the interview
- First impressions
- Personal appearance
- At the interview.
- Following through after the interview.
- What to bring, and not to bring to an interview.
- Interview Questions

## **Who should benefit from attending this workshop ?**

Job seekers and prospective employees.

## **Workshop outcome**

This is the definitive source of information to put you miles ahead of the competition at any job interview. Subjects such as preparation, first impressions, and specific and targeted questions and answers are covered. Job seekers cannot afford to go to any job interview without attending this workshop first

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## TRAINING MODULES

Apart from the workshops, the following training modules are available for in-house training packages;

- Contracts of Service;
- Conducting your Investigation prior to a disciplinary hearing;
- Drafting Disciplinary Charges;
- Managing Incapacity – Ill Health or Injury;
- Managing Employee Poor Work Performance;
- Dismissal due to Operational Requirements;
- Conflict Management in the workplace – Grievances;
- Absconding – Desertion by the Employee;
- Absenteeism – How to deal with Unauthorized Absence;
- Dishonesty in the Workplace;
- Handling of Insubordination;
- Negligence;
- Assault;
- Substance abuse in the workplace: Under the influence of alcohol or drugs at the workplace;
- Loss, abuse and damaging company property;
- Trade unions in the workplace;

This training modules are available in 1,5 to 2 hour training sessions and includes;

- Course material;
- Group discussions;
- Case law reviews, and
- roleplay where appropriate.

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## PREVIOUS DISCUSSIONS ON OUR WEBSITE:

### Is the employer allowed to amend the charge sheet during a disciplinary hearing?

Munnik Basson Dagama Attorneys v Commission for Conciliation, Mediation and Arbitration and Others: JR1153/08

In this matter the CCMA commissioner awarded the employee with three months salary for a procedurally unfair dismissal.

The charges against the employee for the disciplinary hearing were;

1. *failed to activate the letters for ASC WW VISA 2 (498) and ASC Homechoice (499);*
2. *failed to correct the PTP due date on a Metropolitan PTP letter;*
3. *failed to approve the test data letter samples provided by Laser Facilities facility proofs on the 7th and 8th August 2007;*
4. *failed to identify and rectify the errors in the Botswana letterhead."*

During the second day of the disciplinary hearing the employer's representative request the chairman to amend the charge sheet by categorising the four counts of misconduct as gross negligence. Her motivation for the request were that an error had occur with the preparation of the chargesheet and that the charges are not fully described as gross negligence.

The employee object to the request for the amendment. The chairman granted the amendmend since the four charges were for failure to perform certain tasks. The chairman further offered both parties adjournment to prepare additional evidence should it be necessary due to the labelling of the charges as gross negligence. Both parties elected not to adjourn the proceedings and the employee were eventually found guilty on the four charges and dismissed.

The employee referred the matter to the CCMA. After the evidence were heard the commissioner found that the dismissal was substatively fair but procedurally unfair in that the chargesheet was amended during the disciplinary hearing.

The decision of the Labour Court judge is that in civil proceedings as well as labour matters it is allowed to amend the charge sheet before a finding is made. He further agrees with another judge that disciplinary proceedings may be "more flexible, less onerous" as small employers are often not able to follow elaborate pre-dismissal procedures.

It were also considered by the judge that the chairman was impartial and that the employee was given the oppurtunity to adjourn the hearing to prepare new evidence for the amended charge sheet.

The arbitration award was set aside and replaced with an order that the dismissal was procedurally fair.

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