

## *EMPLOYEE RIGHTS*

### **Part 3**

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We now take a further look at some of the additional rights of employees in terms of the Basic Conditions of Employment Act.

The employee has the right to inspect any record kept in terms of this act that relates to the employment of that employee.

This means basically that if necessary, an employee is entitled to inspect his personal file held in HR.

He may wish to do this, for example, after a disciplinary hearing in order to inspect his previous disciplinary record, or to obtain some information from his file in preparing an appeal.

The employee is entitled to participate in proceedings in terms of this act.

Such proceedings may include retrenchment consultations, wage negotiations, inspections being carried out by a Labour inspector, and so on.

The employee is entitled to request a trade union representative or a Labour inspector to inspect any record in terms of this act and that relates to the employment of that employee.

This would mean that if the employee feels that some or other information or record contained in his personal file does not comply with the act, he would be entitled to request a Labour inspector to inspect the record and order any amendments that may be necessary.

The same condition applies to every trade union representative, who has the right, at the request of an employee, to inspect any record kept in terms of this act that relates to the employment of that employee.

The above does not really present a problem for the employer, and I think most employers will agree that employees have very seldom, if ever, exercised any of the above rights. One reason for this may be that employees do not know their rights.

A further right, which may cause a bit of concern, is that

"no person may discriminate against an employee (including a former employee or an applicant for employment) for exercising a right conferred by this part."

The area where employers must be careful here is that this includes "an applicant for employment" thus employers must be careful in their review and shortlisting procedures, because even an applicant for employment does have certain rights in terms of the act.

No person : (including no employer) may

[a] require an employee not to exercise a right conferred by this Part;

[b] prevent an employee from exercising a right conferred by this part.

Thus it would be unlawful for an employer to attempt to persuade an employee not to exercise his rights in terms of the act, and it would be unlawful for the employer to go further than verbal persuasion and resort to other methods to prevent an employee from exercising his rights in terms of the act.