

**SECTION HR 01**

**AM AHLATHI**  
**MUNICIPALITY**

**HUMAN**  
**RESOURCE**  
**MANAGEMENT**  
**AND**  
**COLLECTIVE**  
**BARGAINING**

## SECTION HR 01

### HUMAN RESOURCE MANAGEMENT & COLLECTIVE BARGAINING

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## **SECTION HR 01**

# **HUMAN RESOURCE MANAGEMENT & COLLECTIVE BARGAINING**

### **1. Introduction**

The purpose of this chapter is to clarify for newly appointed Human Resources directors, Managers, or Personnel Officers precisely what forms part of the responsibilities of a Human Resources Directorate / Department in Local Government in South Africa.

This chapter will also deal briefly with some of the labour legislation with which Human Resources staff members are required to be familiar with in order to adequately perform their duties.

### **2. Legislation Applicable to Human Resource Departments**

It is essential that Human Resources staff members understand the contents of all the Acts regulating Employment and Labour Relations in order to undertake their duties properly. Some of the most important employment laws are set out hereunder with a brief description of the contents of each Act.

#### **2.1 Basic Conditions of Employment Act (as amended)**

The purpose of this Act is to set minimum (or basic) Conditions of Service for all employees in South Africa, (excluding only members of the National Defence Force, the National Intelligence Agency and the South African Secret Service).

This Act covers issues such as the regulation of working time, minimum leave regulations, matters which must be included in letter of appointment, conditions applicable to the termination of employment (including notice periods, severance pay, etc) and various other general conditions applicable to employment of staff.

Employers may grant their staff members better conditions than those provided for in the BCEA but they may not grant any employees worse conditions than the Act provides.

Regulations have also been promulgated in terms of the BCEA, as well as a Code of Good Practise on the Arrangement of Working Time.

All employers are required to display a poster setting out a summary of the provisions of the BCEA in every work place.

## **2.2 Labour Relations Act (as amended)**

The purpose of this Act is to regulate the organisational rights of Trade Unions, to promote and facilitate collective bargaining, to regulate the right to strike and to lock-out, to promote employee participation in decision making, to provide procedures for the resolution of labour disputes, to establish a Commission for Conciliation, Mediation and Arbitration (CCMA) and other various purposes.

The issue of collective bargaining will be dealt with later in this chapter. The provisions of this Act are particularly to the labour relations section of a Human Resources Department.

## **2.3 Unemployment Insurance Act (as amended)**

A new Unemployment Insurance Act was promulgated in 2001. The purpose of this Act is to establish an Unemployment Insurance Fund to which all employers and employees must contribute 1% of the employee's salary, from either side.

The Act also provides for the payment of Unemployment Insurance Benefits to unemployed contributors to the Fund.

## **2.4 Employment Equity Act (as amended)**

The purpose of this Act is to eliminate unfair discrimination in employment practises and ensure the implementation of affirmative action to redress the effects of discrimination, as well as to achieve a diverse workforce broadly representative of the various racial groups.

The Act requires employers with more than 50 staff members to complete an Employment Equity Plan. Chapter 2 of this Manual provides a detailed explanation of how an Employment Equity Plan must be drafted, and how to comply with the provisions of the Employment Equity Act.

## **2.5 Occupational Health and Safety Act (as amended)**

The purpose of this Act is to provide for the health and safety of persons at work and those employed in connection with the use of plant and machinery, the protection of people against hazards to

health and safety arising from work activities and to provide for the establishment of an Advisory Council for Occupational Health and Safety.

Chapter 13 of this Manual deals with Occupational Health and Safety in the Workplace and how to comply with the provisions of the Occupational Health and Safety Act.

## **2.6 Compensation for Occupational Injuries and Diseases Act (as amended)**

This Act was promulgated in 1993 and replaces the old Workmen's Compensation Act. Its purpose is to provide for compensation for disablement caused by occupational injuries or diseases sustained or contracted by employees in the course of their employment. The Act also provides for compensation for death resulting from such injuries or diseases, as well as for various matters connected with occupational illness.

This Act will also be covered in Chapter 13 of this Manual.

## **2.7 Skills Development Act (as amended)**

This Act was promulgated to provide an institutional framework for the implementation of national sector workplace strategies to develop and improve skills in the South African workforce.

In terms of this Act, employers are required to draft a Workplace Skills Plan to determine training priorities of their staff members and to pay levies to the relevant SETA, via the Receiver of Revenue. A portion of the levies may be claimed back from the SETA once the training of the staff has been conducted, in terms of the Workplace Skills Act.

The provisions of this Act and employer's legal obligations concerning the Act are set out in details in Chapter 6 of this Manual.

## **2.8 Municipal Systems Act (Chapter 7)**

Chapter 7 of the Municipal System Act deals with human resources' matters in Local Government. This chapter of the Municipal Systems Act deals with the appointment of Municipal Managers, Managers directly accountable to Municipal Managers, employment contracts and various other matters relating to the employment of municipal staff.

It is important to note that in terms of Section 52 (chapter 7) of the Act, the following is set out:

“In the event of any inconsistency between a provision of this Chapter, including the Code of Conduct referred to in section 69, or a regulation made for purposes of this Chapter, and any applicable labour legislation, the labour legislation prevails.”

This means that the provisions of the Labour Relations Act, the Basic Conditions of Employment Act and any other labour legislation takes precedence over the provisions of the Systems Act, insofar as staff matters are concerned.

All the rights and privileges of both local authorities as employers and their staff members as employees can accordingly not be changed by the provisions of the Systems Act.

## **2.9 Various other Employment Legislations, including Bargaining Council Agreements**

The Acts set out above represent the main Acts with which Human Resources Staff will need to deal with in the course of their duties. However, there are various other pieces of gazetted legislation which HR employees may be required to deal with, e.g. Essential Services Agreements negotiated at Bargaining Council level and promulgated in a gazette, various SAQA (South African Qualifications Authority) regulations etc.

It is essential that Human Resources employees keep abreast of any amendments to employment laws as well as of any new agreements, regulations or acts.

## **3. Human Resources Management in Local Government**

A Human Resources Department / Directorate in a Local Authority would usually comprise of four sections or functions. In a large Local Authority of several thousand employees each function would have its own department. The functions or departments are as follows:

- 3.1 Personnel Department / Section
- 3.2 Labour Relations Department / Section
- 3.3 Training and Development Department / Section
- 3.4 Occupational Health and Safety Department / Section

In a large Local Authority, owing to the size of the staff complement, the Human Resources function becomes an extremely important part of the

smooth operation of the organisation. In such an organisation, managing the labour relations functions alone can be a fulltime job. The four departments / sections of a Human Resources directorate are dealt with hereunder.

### **3.1 Functions of a Personnel Department / Section**

Some of the functions of a Personnel Department / Section are as follows:

#### **3.1.1 Payroll Administration**

This involves administering the weekly / monthly payrolls and ensuring that all deductions for PAYE, UIF, Union Subs, Pension, etc are made on each employee's salary.

It also involves ensuring that overtime payments are properly calculated and included. Any employee, who dies, resigns, retires or is dismissed, must have his name removed from the payroll.

It is essential that the administration of the payroll is accurately undertaken as staff members will be extremely dissatisfied if they are not paid the correct amount each month. Payrolls are normally completed in a computerised format and are usually finalised by the Treasury department, with assistance from the Personnel Department, on any payroll changes.

#### **3.1.2 Recruitment and Selection**

This Personnel Department function is covered extensively in Chapter 3 of this Manual.

#### **3.1.3 Implementing Employment Equity**

This function is dealt with extensively in Chapter 2 of this Manual.

#### **3.1.4 Performance Management**

Implementing a staff performance management system is also a Personnel Department function. This is dealt with in Chapter 8 of this Manual.

### **3.1.5 Job Evaluation**

The preparing of job descriptions and attending to the job evaluation process is a Personnel Department function. In Local Government, the Task Evaluation System is presently in operation.

### **3.1.6 Benefit Fund Administration**

It is the duty of the Personnel Department to ensure that all deductions made for medical aid, pension, group life, etc. are forwarded to the relevant funds. It is also a Personnel Department function to confer with the funds when necessary e.g. when an employee dies and group life and pension benefits must be paid.

### **3.1.7 Counselling Staff**

Any staff member with personal problems, e.g. family problems, health problems, drinking problems, etc. must be able to go to the Personnel Department for assistance and counselling. Personnel officers must maintain confidentiality in all such cases.

### **3.1.8 Administration of Conditions of Service**

The Personnel Department is responsible for administering all Conditions of Service including leave regulations, personnel files, etc.

## **3.2 Functions of a Training and Development Department / Section**

Some of the functions of a Training and Development Department / Section are as follows:

### **3.2.1 Compiling and Presenting Training Courses**

This involves drafting training courses which have been identified as being needed and presenting them to the relevant staff members.

### **3.2.2 Monitoring Training**

This involves monitoring the effectiveness of training in order to ensure that staff is learning from the courses provided.

Various follow up mechanisms are used to determine whether the training has been effective or not.

### **3.2.3 Drafting Skills Development Plans**

The Training and Development Department / Section are responsible for this function and for ensuring that the staff undertake the training as identified in the Skills Development Plans.

### **3.2.4 In-Service Training, Mentoring and Learner ships**

On the job or in-service training is implemented by the Training Department which is also responsible for administering learner ships as defined in the Skills Development Act.

### **3.2.5 Undertaking Skills Audits and Training Needs Analyses**

These functions are necessary to determine the training needs of a municipality.

### **3.2.6 Manpower Planning and Career Pathing**

Although this function can be performed by the Personnel Department, it is usually a Training and Development task. This function involves determining what skills the municipality would be losing in the near future and ensuring that suitably qualified people are available. It also involves determining career paths for staff members who wish to progress.

## **3.3 Functions of an Occupational Safety Department / Section**

This Department is responsible for the following:

### **3.3.1 Occupational Safety in the Workplace**

This involves ensuring that the provisions of the Occupational Health and Safety Act are complied with and that suitable safety standards are implemented. It also involves ensuring that the necessary safety clothing and equipment is used.

### **3.3.2 Injured on Duty Claims**

The Safety Department assists employees who have been injured on duty to make the necessary claims in terms of the Compensation for Occupational Injuries and Diseases Act.

### **3.3.3 Industrial Nursing**

In large municipalities with several thousand employees, industrial nurses are sometimes employed to attend to the health needs of municipality's employees. An industrial nurse may have the authority to issue sick leave certificates and treat minor injuries and illnesses in the workplace.

## **3.4 Functions of Labour Relations Department / Section**

Some of the functions of the Labour Relations Department are as follows:

### **3.4.1 Handling Labour Disputes**

The Labour Relations Department is responsible for all dealings with the Trade Unions and would deal directly with Unions in case of labour disputes, including strikes. The Labour Relations Department would deal directly with the Bargaining Council concerning any matters negotiated between the employers and employees at national or provincial level.

### **3.4.2 Staff Disciplinary / Grievance Hearings**

This Department would be responsible for ensuring that all disciplinary hearings are conducted substantively and procedurally fairly. The Labour Relations Department would also ensure that staff grievances are handled promptly and efficiently.

### **3.4.3 CCMA and Labour Court Cases**

When matters are referred to the CCMA or the Labour Court by the Trade Unions, it is the responsibility of the Labour Relations Department to attend to these matters on behalf of the Municipality.

### **3.4.4 Collective Bargaining Issues**

This function is the responsibility of the Labour Relations Department which is responsible for all dealings with Bargaining Councils. The issue of Collective Bargaining will be more fully dealt with hereunder.

## **4. Collective Bargaining**

Collective Bargaining in Local Government in South Africa takes place at the South African Local Government Bargaining Council. Some matters are negotiated at national bargaining council level whilst others are delegated, in terms of the Bargaining Council Constitution, to the provincial bargaining council level.

The Bargaining Council has also determined in its Organisational Rights Agreement that Local Labour Forums be established in each municipality in order that collective bargaining may also take place on a local level. A Local Labour Forum is a committee comprising of both employer and trade union representatives in order to negotiate matters of local interest.

### **4.1 What is a Bargaining Council?**

A Bargaining Council is a body comprising of an equal number of employer representatives (Councillors in local government) and trade union representatives and which is responsible for regulating labour relations within a specific sector. In the local government sector, the employer component is represented at a national level by the South African Local Government Association (SALGA) whilst the trade unions are represented by IMATU and SAMWU.

The same parties are represented in the Provincial Bargaining Councils in each of the nine provinces of the country. Bargaining Councils were formerly called Industrial Councils in the old Labour Relations Act but the new terms have been used in the new Act.

Bargaining Councils are established in terms of the Labour Relations Act and this Act provides them with various functions and powers, including negotiating salary increments for municipal employees in South Africa. Bargaining Councils also negotiate other collective agreements, e.g. the Essential Services Agreement.

Bargaining Councils are also responsible for attempting to prevent and resolve labour disputes. Other functions of Bargaining Councils include representing the voice of Local Government in

discussions with central Government on new legislation and other matters.

Although some Bargaining Councils also administer pension, medical aid and other benefit funds, this is not the case in Local Government in South Africa.

## 5. **Conclusion**

The duties and functions of a Human Resources Directorate or Department are vast and a great deal of experience and training is necessary in order to properly fulfil the role of Human Resources Director / Manager. In this chapter we have briefly covered an overview of just some of the responsibilities which Human Resources practitioners will be required to deal with.