

## Acts, Bills, Draft Bills & Commencement Dates (for Oct 31 2006-Jan 18 2007)

**Bills**

MEASUREMENT UNITS AND NATIONAL MEASUREMENT STANDARDS BILL B21B  
rec'd Oct 31 2006

ACCREDITATION FOR CONFORMITY ASSESSMENT, CALIBRATION AND GOOD LABORATORY PRACTICE BILL B29A and B29B rec'd Oct 31 2006

GAUTRAIN MANAGEMENT AGENCY BILL (Draft)  
Rec'd in Gauteng PG Vol 12, No 385 of Oct 19 2006

GAUTENG LIQUOR AMENDMENT BILL (Draft)  
Rec'd in Gauteng PG Vol 12, No 385 of Oct 19 2006

REVENUE LAWS AMENDMENT BILL 33 OF 2006  
Rec'd Nov 2 2006

REVENUE LAWS SECOND AMENDMENT BILL 34 OF 2006  
Rec'd Nov 2 2006

ADJUSTMENTS APPROPRIATION BILL  
BILL NO 32 OF 2006 rec'd on Nov 14 2006

FURTHER EDUCATION AND TRAINING COLLEGES BILL  
BILL NO 23 of 2006 Sep 12 2006

B23C and B23D rec'd Nov 14 2006

SOCIAL HOUSING BILL (draft)  
Nov 14 2006: Published in GG 29339, Notice No 1526 of Nov 3 2006. Comments by Dec 4 2006

SOUTH AFRICAN AIRWAYS BILL  
35 of 2006 rec'd on Nov 14 2006

CIVIL UNION BILL  
B26B rec'd Nov 16 2006

ELECTRICITY REGULATION AMENDMENT BILL  
B20B rec'd Nov 16 2006

13 TRANSNET PENSION FUND AMENDMENT BILL  
B30B rec'd Nov 16 2006

14 CRIMINAL LAW (SEXUAL OFFENCES) AMENDMENT BILL 50 OF 2003

B50B rec'd Nov 21 2006

15 SOUTH AFRICAN INSTITUTE FOR DRUG FREE SPORT AMENDMENT BILL 7 OF 2006  
B7C and B7D rec'd Nov 21 2006

FIREARMS CONTROL AMENDMENT BILL 12 OF 2006  
B12C and B12D rec'd 21-Nov-2006

MEDICAL SCHEMES AMENDMENT BILL (draft)  
Draft published in GG 29408 of Nov

24 2006  
NATIONAL ENVIRONMENTAL MANAGEMENT: WASTE MANAGEMENT BILL (draft)  
Dated Nov 2006, rec'd Dec 13 2006

NATIONAL ENVIRONMENTAL MANAGEMENT: INTEGRATED COASTAL MANAGEMENT BILL (draft) in GG 29476 of Dec 14 2006

NATIONAL GAMBLING AMENDMENT BILL (draft)  
In GG 29489 of 18 Dec 2006

RENTAL HOUSING AMENDMENT BILL (draft)  
In GG 29503, comments by Feb 2 2007

PREVENTION OF ILLEGAL EVICTION FROM AND UNLAWFUL OCCUPATION OF LAND AMENDMENT BILL (draft)  
In GG 29501, dated Dec 22 2006

23 HOUSING AMENDMENT BILL (draft) in GG 29502 of Dec 22 2006

**Acts**

OLDER PERSONS ACT 13 OF 2006  
Not yet in force

CIVIL UNION ACT 17 OF 2006  
With effect from Nov 30 2006

FURTHER EDUCATION AND TRAINING COLLEGES ACT 16 OF 2006  
With effect from Dec 11 2006

GAUTRAIN MANAGEMENT AGENCY ACT 5 OF 2006  
Not yet in force

ADJUSTMENTS APPROPRIATION ACT 14 OF 2006  
wef date Nov 30 2006

6 CARRIAGE BY AIR AMENDMENT ACT 15 OF 2006  
Not yet in force

7 GAUTENG LIQUOR AMENDMENT ACT 6 OF 2006  
With effect from 05 Dec 2006

**With Effect From Dates**

MAINTENANCE ACT NO 99 of 1998 ACT  
Nov 1 2006 see GG 29343 for additional sections coming into force

CORPORATE LAWS AMENDMENT ACT 39 OF 2002 Apr 1 2007 for s 7, 8, 9

NATIONAL PORTS ACT 12 OF 2005  
wef Nov 26 2006

# Competence not always best defence

**C**AN an employer dismiss a competent manager who causes disharmony in the workplace? The appointment of a new manager in a company may result in him/her making sweeping changes in an attempt to steer the company in a new and more productive direction.

The new manager is hard working, committed to the growth of the company, and the changes that he/she has introduced are delivering good results. However, he/she lacks the ability to effectively communicate these changes to staff members, which results in a low morale.

The company is threatened with a strike, long serving, dedicated and competent staff members resign and the company is faced with a mass resignation by other highly skilled staff. This situation can have disastrous consequences on the profitability of the company and the employer is required to find an expedient solution to the problem.

A manager's lack of interpersonal skills that results in conflict and disharmony in the workplace is generally referred to as incompatibility. Incompatibility is defined as "the inability on the part of an employee to work in harmony either within the 'corporate culture' of the business or with a fellow employee".

A line of court decisions going back to the Industrial Court as well as the more recent Labour Court decision of *Jabari vs Telkom SA (Pty) Ltd* have made it clear that an employer has the prerogative to set reasonable standards pertaining to the harmonious interpersonal relationships within the workplace. In *CSIR vs Fijen* the Labour Court held that there is an implied duty on the employee to not act in a way which results in disharmony and causes a breakdown in the employment relationship. Where the conduct of an employee creates disharmony in the workplace, an employer is entitled to take steps to address the situation which might result in a dismissal.

The Labour Relations Act does not list incompatibility specifically as a separate ground for dismissal. Section 188 of the act lists three grounds of dismissal: dismissal relating to the employee's conduct, capacity, or operational requirements. CCMA awards and the recent Labour Court decision of *Jabari vs Telkom (Pty) Ltd* classified incompatibility as a species of incapacity.

While an employer has the right to act against an employee it has found to be incompatible with its corporate culture, it is essential that the correct procedure is followed. The following guidelines (although not exhaustive) were laid down and can be followed when charging an employee with incompatibility:

- The employee must be advised as to what type of conduct allegedly causes disharmony;
- The employee must be told who has been upset by the conduct;
- What remedial action is suggested by the employer to remove the incompatibility?
- The employee must be given a fair opportunity to consider the allegations and prepare his reply thereto;
- The employee must be given a proper opportunity to present his version; and
- Where he/she is found to be responsible for the disharmony the employee must be given a fair opportunity to remove its cause.

portunity to remove its cause.

The golden rule before making a finding on incompatibility is that the employer is required to make practical and genuine efforts to achieve improvement in interpersonal relationships when dealing with a manager whose work is otherwise satisfactory. To dismiss a manager for incompatibility, it must be proven that the conduct is the primary source of disharmony and despite attempts by the employer to accommodate him/her, he/she is unable to adapt within the corporate culture.

Handling interpersonal conflict caused by a competent manager might be challenging, but failure to address it can in certain circumstances, negatively impact on the company's performance. Although certain situations might require urgent and expedient intervention, there is no quick way to deal with incompatibility.

It is essential to follow the correct procedure. Failure to do so might put the employer at risk to a finding that the dismissal of such an employee was unfair and the employer could be ordered to reinstate an incompatible manager, which might lead to even more disastrous consequences within the company.

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