

## new regulations and guidelines

### **new employment equity regulations and forms**

The Employment Equity Regulations issued in 2006 have been repealed and replaced by a new set of regulations (including the various EEA forms which employers need to use to submit reports) with effect from 14 July. The new regulations and forms appear in the Government Gazette of 14 July 2009.

Employers should make sure they have these new regulations and forms before preparing and submitting their next report (and remember that reports are due on 1 October).

### **CCMA guidelines for misconduct arbitrations in the pipeline**

The CCMA is in the process of finalising guidelines for misconduct arbitrations. The guidelines were put together by a drafting team formed about 18 months ago comprising of senior labour law practitioners and senior commissioners.

The object of the guidelines is to ensure that arbitrators issue consistent awards on dismissals involving misconduct.

The issues that the guidelines seek to address include:

- how an arbitrator should conduct the proceedings;
- the valuation of evidence for the purpose of making an award;
- assessing the procedural fairness of a dismissal;
- assessing the substantive fairness of a dismissal; and
- determining the remedy for an unfair dismissal.

The guidelines are expected to be finalised by the end of August 2009, at which stage they will be published in the Government Gazette. Thereafter the CCMA will spend a few months training commissioners and once the training is complete, will create public awareness of the guidelines. The CCMA aims to implement the guidelines by April 2010.

The guidelines are going to be peremptory in that the arbitrators will have to take them into account and will have to provide an explanation if they deviate. It seems that they will become a useful tool in guiding employers on what they need to present to commissioners at arbitration. We will keep our clients updated once the guidelines have been finalised.

*If you wish to obtain a copy of the new regulations or the draft CCMA guidelines please contact a member of the employment law department on 021-4102500 (Cape Town) or 011- 2697600 (Johannesburg) or e-mail the head of the department on [sstelzner@ens.co.za](mailto:sstelzner@ens.co.za).*