



SHOP STEWARDS TRAINING KICKS OFF IN JOHANNESBURG

IMATU's National Executive Council took a resolution in November 2007 that all elected Shop Stewards must undergo training in order to provide the best possible service to the members. The Johannesburg Region kick-started the process by training 40 shop stewards. The training was presented by Churchill Mothapo, who has recently completed the Train the Shop Stewards' training course.

The trainees were highly appreciative of the in-depth content and method of training. They found the course empowering and informative.

The second leg of the training will be more advanced and more emphasis will be placed on handling disciplinary and grievance hearings.

Contributed by Churchill Mothapo: Johannesburg Region

The Durban, Western Cape and Cape Town Regions have also conducted Shop Stewards' Training Courses.

Ukuhlongozwa koMkhandlu Owodwa Wezisebenzi ZikaHulumeni - Lethulelwa Umphakathi. Umthetho Sivivinyo Wezokwengamela Nokuphatha.

Ngenyanga kaMbaso 2008, uMnyango kaHulumeni Wezokuphatha kanye noKwengamela (DPSA) ushicilelwe kuMthetho Phephabuku weZasiso (Iapha esabizwa ngoMthetho Sivivinyo). Kumenywe bonke abathintekayo ukuthibalethe ngaphambili imibono yabo ngaloMthetho Sivivinyo kuze kube mhlaziwu 30 kuMbaso 2008.

uhlongoza ukusungula uMkhandlu Owodwa Wezisebenzi ZikaHulumeni. Ngemva kwalesi simemezelo iNyunyana u-IMATU waqalisa izingxoxo nenhlangano ebhekelele oMasipala baseMakhaya kanye noMnyango kaHulumeni wesiFundazwe Nangaphakathi lezi zingxoxo azibanga nezithelo.

Uma loMthetho Sivivinyo uvunyiwe ePhalamende, uzokhinyabeza isimo, amandla, ukusebenza nokuzimela koMasipala. Umbono ka IMATU mayelana noloMthetho Sivivinyo ukuthi, uzoba nomthelela kumthetho sisekelo kanye neminye imiphumela engemihle.

U IMATU uzame imithombo yolwazi oluningi mayelana nokuhlongozwa koMkhandlu Owodwa Wezisebenzi ZikaHulumeni engqungqutheleni yaHulumeni baseMakhaya owawubanjelwe eGawutini nenyangeni kaNdasa 2005 kwangaphumelela. Kwabasobala ukuthi lezingxenywe zikaHulumeni (DPLG kanye DPSA) kungabe azifisanga ukuxoxisana no IMATU ngaloludaba noma babengenayo imininingwane ephathekayo ngokusungulwakwalomkhandlu omusha.

Umlando

Ngonyaka ka 2002 sekuphele umbuthano wenhlangano ebusayo i-ANC eyayibanjelwe e Stellenbosch, kwabikwa emaphephandabeni nasemisakazweni ukuthi, uHulumeni

Translated By Deputy President Stanley Khoza

LIMPOPO REGIONAL CONFERENCE

The Limpopo Region hosted its annual Regional Conference from 22 – 23 May 2008 at the Magoebaskloof Hotel in Magoebaskloof, Limpopo.

Branch Chairpersons and shop stewards from all over the province were invited to the Conference to inform them about important issues and obtain input from the various Branches.

The Region was fortunate to have Willem van Heerden from

National Office make a presentation to the Conference. He brought the members up to date on issues such as the proposed single public service, primary health care, electricity distribution, and Local Government Pension Fund developments.

The Region was also extremely honoured to welcome IMATU's National President Danie Carstens to the Conference and wishes to thank him for his valuable input.



IMATU'S DEPUTY PRESIDENT ELECTED TO SERVE ON THE KARATE SA EXECUTIVE COMMITTEE

Stan Khoza, IMATU's Deputy President is not a man to trifle with! He has a black belt (5th Dan) in karate - the first black South African to achieve this. Stan became interested in karate in his teens and has been fully involved in the sport ever since. He is the Chairperson of KARATE KZN and has recently been elected to serve on the Executive of KARATE SA. As a member of the Executive, he will focus on promoting karate in the rural areas, as well as the development of officials.

Congratulations Stan – we wish you every success in your new role!

IMATU MAIL



General Secretary: Johan Koen

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National President: Danie Carstens

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IMATU is not affiliated to any political party

LABOUR COURT INTERDICTS EMPLOYER FROM MAKING DEDUCTIONS FROM EMPLOYEES' WAGES

This issue has far-reaching implications for all municipal employees

Thanks to IMATU, nearly 8000 employees will have some take home pay after months of going home empty-handed. IMATU has successfully interdicted the Ekurhuleni Metropolitan Municipality from docking employees' wages for outstanding rates and taxes.



decision. "The municipality has to follow the correct credit procedure; they can't unilaterally deduct money from someone's salary."

IMATU tried to make representations at the February meeting of the Local Labour Forum to prevent the employer from making the deductions. However, they failed to raise the issue because the employer's representatives wanted to listen to Finance Minister Trevor Manuel's budget speech instead! The employer went ahead and continued making the deductions, which resulted in many employees not receiving any wages for months.

Shadow Shongwe, IMATU's Gauteng Regional Manager described the employer's actions as 'inhumane, spiteful and unconstitutional'. He went on to say, "This issue has far-reaching implications for all local government employees. IMATU is prepared to go all the way to the Constitutional Court to prevent the employer from departing from the labour laws when it comes to making deductions from the employees' wages". He also criticised the Ekurhuleni Metropole for the money was wasted on this issue.

André Schmidt, one of the two senior counsel appointed by IMATU, said he was pleased with the Labour Court's

The employer has agreed to stop the deductions and the issue will be discussed at the Local Bargaining Forum.

IMATU'S HIGH COURT APPLICATION: THE NATIONAL HEALTH ACT

IMATU recently applied to the High Court to challenge the constitutionality of the National Health Act. This was done on behalf of the members that are involved in providing primary health care services. IMATU also asked the Court to grant a declarator to define the meaning of 'municipal health services' in terms of Section 1 of the Act.



The effect of the judgement confirms that municipalities have the right, duty and obligation to provide Municipal Health Services and maintain executive authority over these services. This includes Primary Health Care Services (over and above Environmental Health Services).

Judge Makgoba did not agree that the National Health Act was unconstitutional. However, he did issue the following declarator (a binding definition): 'It is declared that Municipal Health Services within the meaning of Section 1 of the National Health Act includes Health Services ordinarily provided by municipalities at the time the Act came into operation'.

IMATU is going to raise the issue nationally with SALGA and the SALGBC and has also instructed the regions to start proceedings to have the services transferred back to the municipalities in those regions where transfers have already taken place. (Free State and Western Cape).

IMATU was represented by advocates Wim Trengrove SC and Matthew Chaskalson.

IMATU'S NATIONAL PRESIDENT ELECTED TO REPRESENT FEDUSA AT ILO CONFERENCE IN GENEVA

Danie Carstens, IMATU'S National President has been elected to represent FEDUSA at the International Labour Organisation (ILO) Conference in Geneva. The ILO consists of more than 200 member countries. The organisation's main aim is to promote fair working conditions, decent employment opportunities, social protection and strengthening dialogue to handle work-

related issues. The ILO was founded in 1919 after the First World War. Its vision is that lasting world peace can only be obtained if this is based on the decent treatment of working people.

The Conference is held in June each year in order to establish and adopt international labour standards and examine key social and labour issues.

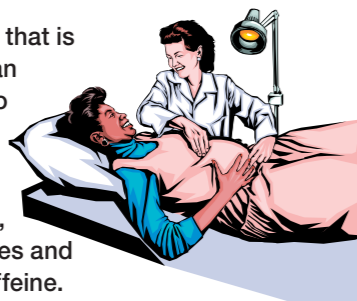
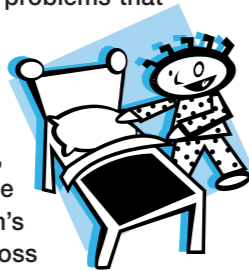
NIGHT SHIFTS: What are the Health Risks?

Employers have a legal duty to make employees aware of the health risks associated with working night shifts and their right to undergo a medical examination.

The employer is required to warn employees of the health and safety hazards associated with working night shifts, as well as their right to undergo a medical examination. (Section 17 (3) (a) Basic Conditions of Employment Act 75 of 1997). However, it seems that few employers are adhering to this legal obligation.

THE MEDICAL EXAMINATION SHOULD COVER:

- Any existing or potential health problems that might affect the employee's ability to perform night work, such as asthma, non-insulin-dependant diabetes, high blood pressure, high cholesterol, depression, seizures, irritable bowel syndrome, Crohn's disease, peptic ulcer, weight loss and general nutritional status.
- Any psychological, emotional and social stresses that might be affecting the employee, as well as the strategies for helping the employee cope with these and the risks associated with shift work.
- Insomnia and the symptoms of sleep deprivation, such as irritability and chronic fatigue.
- The use of medication that is dependant on circadian (daily body) rhythms to be effective
- The employee's diet and the use of alcohol, sleeping pills, cigarettes and drinks that contain caffeine.
- Strategies for helping the employee cope with night work and avoiding the health risks.



The first medical examination should take place when the employee starts night work, and at regular intervals thereafter. The employer should pay for the examination, but the *Code of Good Practice for the Arrangement of Working Time* provides for the costs to be covered by a medical aid.

If the employee should be found to be medically unfit to perform night work, s/he must be allocated suitable day work, provided such work is available. If no day work is available, the employer should first investigate all the available options (re-training, transfer, demotion) before considering incapacity procedures.

HOW TO MINIMISE THE HEALTH RISKS CAUSED BY SLEEP DEPRIVATION

- Try to sleep at least 7-8 continuous hours between shifts.
- Do not go to bed the moment you get home: take an hour or two to unwind and relax before getting into bed.
- Avoid drinking lots of coffee, tea, cola drinks or other stimulants whilst at work, as this may affect your ability to get proper rest when the shift is over.
- Make sure you sleep in a quiet darkened room: if necessary use a sleep mask and earplugs.
- Family members should be encouraged to respect the shift worker's need to sleep between shifts.
- Try and limit the time spent on personal, social and sporting activities between shifts.
- Avoid alcohol between shifts, particularly during the 12 hours before the start of the next shift.
- Make sure you maintain a proper diet and eat regular meals. You should also drink sufficient water during and after the shifts.

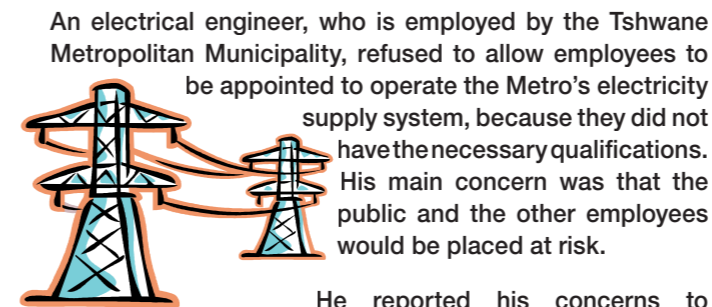
ARRANGEMENT OF SHIFTS

- Employees should not have to use their time off to sort out wage and other administrative problems.
- Shifts should be arranged to ensure that employees are not denied opportunities to undergo training or attend important meetings.
- Safety-critical tasks should ideally be performed when the employee is least likely to be fatigued. This is particularly important if hazardous operations could have a direct impact on the public.
- The employer should ensure that shift workers are adequately protected whilst on duty and that they have access to safe transportation before and after the shifts.
- Employees should be given sufficient rest pauses during the shifts, particularly if they are required to operate or oversee machinery and equipment.

Employees and employers who need more information on shift work should consult the *Code of Good Practice on the Arrangement of Working Time*, which was published in terms of Section 87(2) of the BCEA.

HIGH COURT RULES IN FAVOUR OF ENGINEER WHO REPORTED THE EMPLOYER TO THE DEPARTMENT OF LABOUR

The High Court has ruled that an electrical engineer had a duty to report the employer for trying to appoint workers who were not qualified to operate the employer's electricity supply system



An electrical engineer, who is employed by the Tshwane Metropolitan Municipality, refused to allow employees to be appointed to operate the Metro's electricity supply system, because they did not have the necessary qualifications. His main concern was that the public and the other employees would be placed at risk.

He reported his concerns to management, but when there was no response, he sent copies of the documents to the Department of Labour and the Engineering Council of SA. The employer retaliated by charging him with misconduct for disclosing information to external organs without authorisation, and for not first referring the matter to the highest internal level.

The High Court granted an interdict ordering the employer

to halt the disciplinary proceedings. The Court found that the employee's disclosure was protected in terms of the *Protected Disclosures Act 26 of 2000*, because it was clearly in the public interest.

In addition, the Court found that as an engineer, the employee had a duty to disclose the information in terms of the *Engineering Profession Act 46 of 2000* and the *Occupational Health & Safety Act 85 of 1993 (OHS)*.

Both the Engineering Profession and OHS Acts provide for protection against victimisation, whilst the Protected Disclosures Act stipulates that employees may not be subjected to occupational detriments, such as unfair dismissals, disciplinary proceedings, demotions, etc. for making protected disclosures.

Engineering Council of SA v Tshwane Metropolitan Municipality 2008

LABOUR COURT RULES ON THE STEPS AN EMPLOYER SHOULD FOLLOW WHEN AN EMPLOYEE IS DISABLED BY A WORK RELATED INJURY

The employee was injured in a car accident whilst she was on duty. As a result of her injuries, she could not continue working as a loan consultant and was given lighter administrative duties instead. However, she could not cope with both the telephone and the computer at the same time, because the injuries made it very painful to extend her arms. She asked for a headset and a more comfortable chair, but the employer refused.

She was given shredding and faxing duties, but this aggravated her back injury. The trustees of her pension fund also declined her application for medical boarding.

The employee frequently complained about her working conditions and was often absent from work. Prior to the injury, her attendance record was excellent and she had won an award for her work performance. After two years, during which the employer had a number of discussions with her about her performance, her services were terminated because of incapacity.

The employee told the CCMA that she would have been able to continue working if her employer had consulted an occupational therapist regarding how her duties

and working equipment could be adapted. However, her manager ignored the doctor's recommendation to consult a therapist, because the business unit would have to pay for the consultation.

Judge Pillay agreed with the CCMA's finding that the employer did not comply with Item 10 of the *Code of Good Practice: Dismissal* and the *Code of Good Practice on the Employment of People with Disabilities*. These Codes require the employer to carry out a proper investigation and consider alternatives, such as adapting the employee's workplace before dismissing an employee for incapacity.

The employer claimed that it would be an unjustifiable financial hardship to adapt the employee's working equipment and duties. However, the Judge ruled that hardship does not mean mere inconvenience and rejected the claim, in view of the fact that the employer could afford to pay for the adjustments.

The Judge found that the employee's dismissal was automatically unfair, because it was based on her disability, and ruled that the CCMA's award of R49 936 was reasonable.

Standard Bank of SA v CCMA & Others 2008 (Labour Court)

