

## DISPUTE RELATING TO BENEFITS

**NB:** The law does NOT require that each and every factor set out below apply in all cases. The law encourages the minimum of legal formality. This checklist is merely a guide and should be used with care and flexibility.

### JURISDICTION

- 1 Is the applicant (or his trade union) seeking the enforcement of an existing benefit or the creation of a new benefit?
- 2 Is the applicant still employed?

- 14 Did the applicant (or his trade union) apply in terms of prescribed procedure? Was the application complete and were necessary supporting documents attached?
- 15 If the application was not complete, was the applicant informed of the outstanding requirements?
- 16 Was there a date by which the application needed to be filed? Was it filed by that date?
- 17 Was the application considered by the correct person?
- 18 Was the application refused? Date refused?
- 19 Was the applicant given reasons for the refusal? If so, what are those reasons?

### NATURE / FREQUENCY / AMOUNT OF BENEFIT

- 3 Is this a benefit that has been newly created? If not, how has it been applied in practice?
- 4 Is the benefit given in money or in kind?
- 5 What is the benefit? Is it a bonus, allowance, medical aid, retirement benefit, commission, concession or other?
- 6 What is the amount of the benefit?
- 7 What is the frequency of the benefit?

### FAIR PROCEDURE

- 20 Is this case about a reduction or elimination of a benefit, or a demand to be afforded the benefit?
- 21 If reduced or eliminated, when did that occur?
- 22 If the benefit was reduced or eliminated, was the applicant (or his trade union) consulted before such action was taken? Did the applicant make submissions on why it should not be reduced or eliminated?
- 23 If the applicant was not consulted, what was the procedure that was followed when reducing or eliminating the benefit?

### WHO CAN GET THE BENEFIT?

- 8 What are the categories of employees who have been given the benefit?
- 9 Is the applicant part of that category?
- 10 Have employees who are not part of the above categories been afforded the benefit in the past? If so, what was the reason and what criteria were used to afford the benefit?

### DISCRETION

- 24 Is this a discretionary benefit?
- 25 If so, what are the factors or criteria that must be considered when considering whether to afford the benefit?
- 26 How has the discretion been exercised in the past having regard to the circumstances that prevailed at that time?
- 27 What are the circumstances that have now caused the benefit to be reduced or refused?

### ENTITLEMENT TO BENEFIT

- 11 Where does reference to the benefit occur? Is it in a contract, sectoral determination, statute or collective agreement? (Is a copy of the document available?)
- 12 Is there a qualification (eg years of service or academic qualification etc) to be eligible for the benefit? What are the qualifications?

### APPLICATION FOR BENEFIT

- 13 Is there a procedure that needs to be followed to apply for the benefit?