

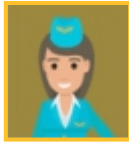
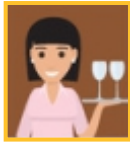


## Dubbelwerk/Dubbelverdienste ("Moonlighting")

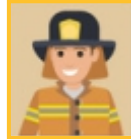
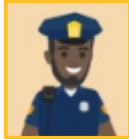
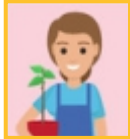
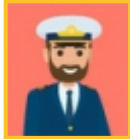
Deur Jannine de Klerk



In die werksplek word dubbelverdienste ("moonlighting") gedefinieer as om 'n tweede betrekking te beklee sonder om jou primêre werkgever daarvan in te lig, asook dat werknemers ekstra geld verdien buite werksure. Die algemene bekommernis is dat dubbelverdienste 'n afname in produktiwiteit in die werksplek kan veroorsaak.



**Die Momentum/Unisa Huis-houdelike Indeks se data toon dat 'n geraamde 14% van huishoudings 'n bykomende inkomste uit 'n tweede werk verkry.** Maar het die werkgever enige reg om beswaar te maak



daarteen dat 'n werknemer 'n tweede werk behou terwyl hy in diens is?

Die algemene beginsel is dat 'n werknemer nie onredelik daarvan weerhou kan word om hul inkomste aan te vul nie. Werkgewers kan egter proaktiewe maatreëls implementeer om die situasie te bestuur deur 'n klousule in die dienskontrak in te sluit wat werknemers vereis om toestemming te bekom of te versoek om bykomende diens te aanvaar. Enige moontlike botsing van belange moet ook geopenbaar word.

'n Beleid in die werksplek kan ook dubbelverdienste verbied. Reëls rakende dubbelverdienste moet op skrif wees om te verseker dat werknemers bewus is van die gevolge wanneer dit oortree word. Die Arbeidsappèlhof het bevind dat vir dubbelverdienste om effektief verbied te word, daar 'n spesifieke reël moet wees wat bepaal dat dit nie toelaatbaar is nie, en werknemers moet bewus wees van hierdie reël. Vir 'n ontslag gebaseer op dubbelverdienste om regverdig te wees, moet dit aan die genoemde kriteria voldoen, en die gevolg daarvan moet baie duidelik gestel word.

Die sleutel om werknemers toe te laat om hul inkomste uit 'n bykomende werksbron aan te vul, is om 'n oop kommunikasielyn te hê, met 'n gemeenskaplike begrip dat prestasie in die werksplek nie as gevolg daarvan moet ly nie.

**Kontak die LWO by 086 110 1828 vir spesialisadvisie in hierdie verband. Lede kan ook 'n e-pos stuur na [info@lwo.co.za](mailto:info@lwo.co.za) vir enige arbeidsreg-advisie en/of bystand.**

### MEER OOR DIE LWO

#### Wie is die LWO?

Die LWO is gedurende 1990 as werkgewersorganisasie tot stand gebring, ten einde werkgewers binne die Suid-Afrikaanse besigheidsgemeenskap te bedien met dienste op die gebied van arbeidsreg.

Die LWO is 'n lede-organisasie sonder winsbejag en word bestuur deur 'n Raad wat uit lede bestaan. Die LWO beskik oor die nodige infrastruktuur om lede effektief op 'n nasionale basis te kan bedien.

#### Die doel van die LWO

Die LWO het ten doel om die werkgewersorganisasie van uitnemendheid te wees vir werkgewers gegrond op die professionele wyse waarop lede van die LWO met arbeidsregtelike dienste bedien word.

### MORE ABOUT THE LWO

#### Who is the LWO?

The LWO was established during 1990 as an employers' organisation in order to assist employers with legal services within the field of labour law.

The LWO is a non-profit members' organisation and is managed by a Board consisting of members. The LWO has the necessary infrastructure to assist members effectively on a national basis.

#### The purpose/goal of the LWO

The LWO aims to be the employers' organisation of excellence for employers based on the professional manner in which members of the LWO is served with labour law services.

## LWO Member Meeting

According to the LWO Constitution a Member Meeting must be held every two years, during which LWO Board Members will be elected to serve for a term of two years.



#### Details of the meeting:

- **Date:** 2 June 2022
- **Time:** 11h30 to 13h30 (registration starts at 11h00)
- **Place:** Louis Bührmann Hall, 194 James Avenue, Silverton, 0127 (TLU SA Head Office)

Your presence at this meeting will be greatly appreciated. Please confirm your attendance with Clarine le Roux or Lindie Smit (086 110 1828) or send an e-mail to [clarine@lwo.co.za](mailto:clarine@lwo.co.za). If you cannot personally attend the Member Meeting, you are entitled to nominate by proxy any other member, whose membership is in good standing, to vote on your behalf.

Thank you for your continued support. Be assured that the LWO continually acts in the interest of all our members. Contact the LWO for more information on 086 110 1828 or send an e-mail to [clarine@lwo.co.za](mailto:clarine@lwo.co.za).

# “Commission only” employees

By Alwyn Annandale



Commission earning employees are no different from any other employee except for the fact that their remuneration is commission based. Employment conditions are regulated in terms of the Basic Conditions of Employment Act and any applicable Bargaining Council Agreement or Sectoral Determination, depending on the industry.

All labour legislation still applies, including the National Minimum Wage Act, which clearly states that every employee must be paid at least the minimum wage as published by the minister of Employment and Labour each year. Employees can always earn more, but an employer must ensure that they earn at least the prescribed minimum.

The purpose of a commission-based remuneration structure is to motivate and reward employees when they perform well. It makes sense, especially in sales and marketing positions, where you earn more if you sell more.

## Performance?

If a commission only employee does not perform satisfactorily and does not meet the employer's fixed standard, the employer has the right to act in terms of the poor work performance, incapacity, or disciplinary procedure (misconduct) depending on the merits of each case after due investigation.

It is very important that the employer implement a job description: a written document that sets out the tasks and duties the employer expects the employee to do. This document forms part of the employment contract and is an attachment to the em-

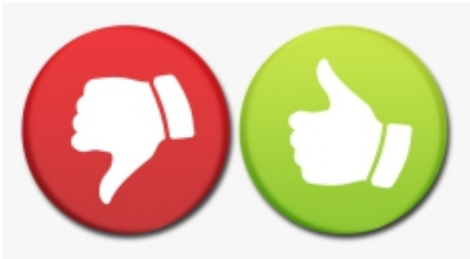
ployment contract. The use of a job description has many benefits for the employer:

- This confirms the tasks/duties that the employer employs the employee to perform.
- It links a fixed standard to the above tasks/duties regarding quantity and quality.
- It forms the basis of regular performance appraisals when looking at increases and/or performance bonuses.
- The job description is a critically important document when addressing poor work performance.

## UIA and COIDA

Employers must take note that legislation such as the Unemployment Insurance Act (UIA) and the Compensation for Occupational Injuries and Diseases Act (COIDA) also apply to commission earning employees. They should also be protected in cases of unforeseen unemployment, or when they are injured at work.

- **UIA** applies to all employers and employees (excluding employees working less than 24 hours a month for an employer). An employer does not have any discretion whether or not to register for unemployment insurance and to pay over the monthly contributions (1% deducted from the employee's salary for the employee's contribution and 1% of the employer's salary for the employer's contribution).
- **COIDA** applies to all employers and casual and full-time employees who, as a result of a workplace accident or work-related disease are injured, disabled, killed or become ill. An employer carrying on business in South Africa, must register with the Compensation Commissioner, and pay the annual assessment fee.



Contact the LWO at 086 110 1828 (or send an e-mail to [info@lwo.co.za](mailto:info@lwo.co.za)) with any labour law enquiry - we assist our members 24/7!

# Dirk Schoeman: LWO HUB

Suid-Afrika se arbeidsomgewing is hoogs gereguleerd en moet werkgewers daarop let om arbeidsverhoudinge in lyn met arbeidswetgewing te bestuur. Die LWO speel 'n belangrike rol in elke besigheid deur hierdie besighedsrisiko aan te spreek. Hierdeur ondersteun ons lede in die skep van welvaart in 'n uiters uitdagende omgewing.

Die LWO is daarop ingestel om ons lede deurlopend professioneel by te staan en is ons trots om aan te kondig dat Dirk Schoeman aangestel is as Hoof Uitvoerende Beampte met intrede 01 Maart 2022.



Dirk se akademiese grondslag (MBA, MSc) gaan gepaard met toepaslike werkservaring in 'n korporatiewe besighedsomgewing en is hy 'n aanwinst vir die LWO waar sy kundigheid tot voordeel van ons lede strek.

Dirk het reeds ingeskakel by die LWO se aktiwiteite en nooi ons lede uit om direk met hom te skakel volgens behoefte – hiermee sy kontakbesonderhede  
076 091 4647 | [hub@lwo.co.za](mailto:hub@lwo.co.za)

[LinkedIn profiel](#)



(Hoofkantoor: 086 110 1828)

**DID YOU KNOW...** the LWO can assist any employer in any business industry with any number of employees to comply with labour law. Including employers with a domestic worker in a private household!



# Probation period dos and don'ts

By Emmirencia Loots



Employees are a valuable asset within the workplace. It is therefore critical to find the right person, not only with the right qualifications and experience, but who will also be compatible with the working environment and culture. The purpose of a probation period is for the employer to assess if the employee's performance meets the employer's required standard. The length of the probation period will depend on the nature of the job, as the more complex the nature of the job is, the longer the period of probation will be. Include the probation period in the employment contract as the contract defines the terms and conditions agreed upon between the parties.

## The dos of a probation period

An employer has the following legal obligations when placing an employee on probation:

- make it clear that the employee is on

probation;

- clarify the length of the probation period;
- set reasonable performance standards;
- specify and explain to the employee the performance standards required;
- evaluate and monitor the employee's performance regularly against the set performance standards;
- inform the employee of performance shortcomings;
- give the employee the opportunity to present more information and explain the situation from his/her point of view;
- assist, guide, counsel and train the employee where necessary;
- follow the correct disciplinary procedure or poor work performance procedure, depending on the circumstances.

## The don'ts of a probation period

Poor work performance is an ever increasing challenge in the workplace and refers to an

employee failing to reach and maintain the employer's work performance standards in terms of quality and quantity. The employer can never just terminate an employee's services, even if the employee is on a probation period and does not perform according to the required standard. This can lead to an unfair dismissal claim against the employer. It is vital to note that the employer can under no circumstances dismiss an employee without following the correct procedure. All dismissals must always be both procedurally and substantively fair.

**Contact the LWO when appointing or dismissing employees to ensure your rights as employer, are protected: 086 110 1828.**

# Moet nie van die volgende vergeet nie...!

Deur Anneline Scriven



Arbeidswetgewing stel streng vereistes waaraan werkgewers moet voldoen. Om aan hierdie vereistes te voldoen is nie onderhandelbaar nie en hou 'n besigheidsrisiko in vir die werkgewer. 'n Deeglike arbeidsoudit orden die werksomgewing in lyn met toepaslike arbeidswetgewing, maar om hierdie stand van sake te handhaaf is dit nodig dat die werkgewer sekere aspekte op 'n gereelde basis hersien.

## Hersien maandeliks:

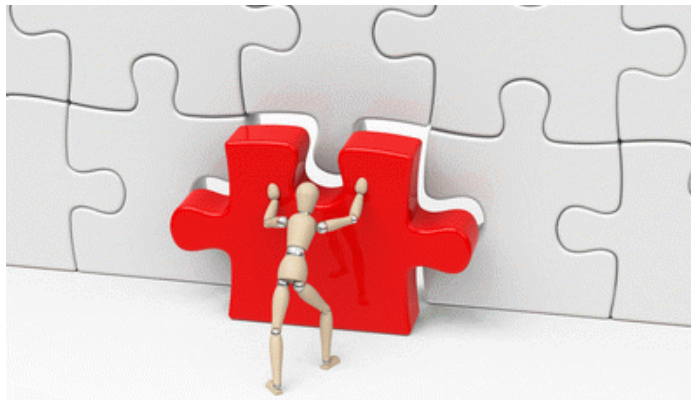
### Kommunikasie en gereelde konsultasie

Effektiewe kommunikasie is krities tot enige besigheid se sukses. Dit dra by tot die skep van 'n omgewing met duidelike reëls en verwagtinge en word misverstande, ongelukkigheid en wrywing in die werksplek proaktief aangespreek. 'n Positiewe werksomgewing is een van die faktore wat produktiwiteit kweek, wat direk impakteer op die besigheid se winsgewendheid en volhoubaarheid. Dit is belangrik dat daar 'n platform is waarop beide die werkgewer en werknemers kan deelneem aan gesprekke, insette lewer, terugvoer verskaf, ongelukkigheid opper, ensovoorts. Kommunikasie op 'n gereelde basis is belangrik om harmonie in die werksplek te bevorder

## Teenwoordigheidsregister

Arbeidswetgewing vereis dat die werkgewer 'n teenwoordigheidsregister op 'n daaglikse basis byhou ten opsigte van elke werknemer. Tydens 'n inspeksie van die Departement van

Indiensneming en Arbeid, word hierdie register deur die inspekteur nagegaan. Maak seker dit word deeglik bygehou ten opsigte van alle ure gewerk.



## Hersien jaarliks:

Arbeidsregdokumentasie moet op 'n gereelde basis hersien word om te verseker dat dit aan toepaslike arbeidswetgewing voldoen, asook steeds relevant is in terme van die besigheid se operasionele vereistes. Hierdie dokumentasie verwys spesifiek na:

## Dienskontrakte

Die dienskontrak is die basis van die verhouding tussen die werkgewer en die werknemer en bevestig skriftelik die diensvoorwaardes waarop ooreengekom is. Dit is uiters belangrik dat die werkgewer die regte tipe dienskontrak (permanent of vaste termyn) implementeer en seker maak dat die inhoud daarvan voldoen aan toepaslike arbeidswetgewing.

Gaan die dienskontrakte na om vas te stel of

daar enige veranderinge aangebring moet word. Neem kennis dat eensydige wysigings onbillike arbeidspraktyk is en groot risiko inhou vir die werkgewer. Kry die werknemer se skriftelike toestemming om eensydige verandering aan terme en voorwaardes van diens te vermy.

## Dissiplinêre kode, beleide en prosedures

Elke werksplek is uniek en ontstaan daar dikwels 'n behoefte aan spesifieke reëls om orde en struktuur te verleen in die werksplek. Hersien hierdie reëls, insluitende beleide en prosedures, van tyd tot tyd om seker te maak dit is steeds relevant. Dit is belangrik dat die werksplek se dissiplinêre kode op datum is in terme van oortredings en sanksies. Progressiewe dissipline moet ook deurlopend toegepas word. Indien enige veranderinge gemaak word, is dit noodsaaklik om die werknemer daarvan in kennis te stel.

Werkgewers moet hul vinger op die pols hou. Arbeidswetgewing is 'n spesialisveld en kundige advies is noodsaaklik om risiko te beperk. Arbeidsverhoudinge is 'n emosionele omgewing en kan 'n onpartydige derdeparty groot waarde toevoeg, veral met die toepas van dissipline of met prosesse soos swak werksprestasie, herstrukturering, personeelvermindering, vakbondonderhandelinge ensovoorts.

**LWO lidmaatskap bied aan werkgewers 24/7 kundige advies – kontak ons by 086 110 1828 of stuur 'n e-pos na info@lwo.co.za.**

# Kontak die LWO/Contact the LWO

Tel: 086 110 1828 | Faks/Fax: 012 664 2703 | E-pos/E-mail: info@lwo.co.za | Web: www.lwo.co.za

Adres/Address: Privaat sak/Private bag x121, Centurion, 0046 | Eenheid/Unit 16, Central Office Park, Jeanlaan 257/257 Jean Avenue, Centurion

## HOOFKANTOOR

**Voorsitter**

**Hoof Uitvoerende Beampte**

**Hoof Finansiële Beampte**

**Bestuurder: Regsdienste**

**Klaas Venter**

**Dirk Schoeman**

**Daniel van der Vyver**

**Adv. Kees Gouws**

**076 091 4647**

**071 485 0647**

**071 485 3551**

**hub@lwo.co.za**

**daniel@lwo.co.za**

**kees@lwo.co.za**

**Senior Regsadviseur**

**Senior Regsadviseur**

**Regsadviseur**

**Regsadviseur**

**Regsadviseur**

**Alwyn Annandale**

**Adv. Michelle Smuts**

**Emmirencia Loots**

**Abrie Bronkhorst**

**Christiaan Swart**

**071 485 3501**

**064 756 5665**

**071 485 3530**

**071 485 3503**

**071 485 3565**

**alwyn@lwo.co.za**

**michelles@lwo.co.za**

**emmi@lwo.co.za**

**abrie@lwo.co.za**

**christiaan@lwo.co.za**

**086 110 1828: LWO regsadvies hulplyn 24/7 legal advice helpline**



Gaan "like" ons facebookblad by: [lwo.labour](https://www.facebook.com/lwo.labour)

## LWO bedieningspunte / service points

Nota: dienste sal gelewer word vanaf die naaste bedieningspunt/Note: services will be rendered from the closest service point

